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TRANSFORMING THE EASTERN NEIGHBOURHOOD

The Security Implications of European Union Activity in
Ukraine 2000-2006

IVAYLO GATEV

Doctor of Philosophy

ASTON UNIVERSITY

October 2009

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Aston University

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Theses Summary

This thesis examines the external activities of the European Union conducted in the wider Europe against the backdrop of eastern enlargement. It focuses on the technical aspects of EU diplomacy, using qualitative research methodology to study the programmes and initiatives launched since the year 2000 in the countries lying along the Union's new border to the east. Drawing on evidence from Ukraine, it hypothesises that the EU is an agent of transformation in the eastern neighbourhood and that this transformation has important implications for the regional order in the post-Soviet space. The thesis constitutes an investigation into the transformational activities engaged by the EU in Ukraine conducted with an eye to their strategic implications. It documents and analyses three specific instances of EU intervention in Ukraine's internal processes that relate to the management of cross-border traffic in the Ukrainian-Russian borderland, the restructuring of the country's energy sector, and the conduct of its contentious presidential election in 2004. It is argued that while these interventions have explicitly sought to advance the Union's security with respect to certain twenty-first century transnational threats, they have at the same time served to confer important strategic advantages on the EU that include giving the bloc greater knowledge and control over developments in Ukraine and that contribute to the dismantling of infrastructural, institutional and other ties between Kiev and the other Soviet successor states, notably Russia. The effect of the European Union's actions in the region, whether intended or not, has thus been to undermine any competing regional initiatives that cut across its own functions, and thereby to assert itself as the primary integration project in Europe. By showing how technical interventions in the politics, economics and administration of Ukraine can yield important geopolitical dividends, this thesis demonstrates that, in the context of EU external relations, high and low politics are interlinked.

keywords: external governance, Wider Europe, geopolitics

Acknowledgements

The author wishes to express his gratitude to: Dr Marcin Zaborowski for supervising my work and for guiding me, particularly at the crucial early stages of my research; Dr Michael Sutton for reading and commenting on previous drafts of this thesis and for his constant support and encouragement throughout my period of registration as a postgraduate research student at Aston; Olga and Sergey Maksymenko of EuroRegio Ukraine for hosting me during my research trip to Kiev; Jacques Bouché for his invaluable help in contacting potential interview respondents in Brussels; Dr Kate Sturge and the masters students in translation studies for their help with translating a number of documents from German; the Aston Modern Languages Research Foundations for sponsoring my field work in Belgium and Ukraine. Finally, the author wishes to thank the School of Languages & Social Sciences at Aston University for the three-year research scholarship without which this thesis would not have been written.

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INTRODUCTION

European Union (EU) policy towards the former USSR has always been a crucial element in East-West relations. During the Cold War period this policy was largely subordinated to Washington's strategic rivalry with Moscow. The dissolution of the Eastern bloc and the subsequent break up of the Soviet Union led to the relaxation of tensions on the European continent and ushered in the prospect of a more active engagement on the part of Western Europe with the successor states of the USSR. At first, the EU shied away from direct involvement in the politically fragmented post-Soviet space. Absorbed by its own internal transformation from an intergovernmental organisation into a political and economic union and overwhelmed by the complexities of impending enlargement, the EU was for most of the 1990s inattentive and largely indifferent to developments in the far eastern part of the European continent. Any thoughts on how to manage relations with the Soviet successor states were pushed into the background by the more pressing priorities of internal consolidation and geographical expansion that were the order of the day during the better part of the last decade.

Round about the year 2000, however, this attitude began to change. The process of bringing large swathes of Eastern Europe into the EU fold was already well underway, and the bloc increasingly began to turn its gaze further eastward towards the former USSR. Enlargement opened new horizons in the east. The geographical proximity resulting from the bloc's expansion presented new possibilities for engagement with post-Soviet Eastern Europe. These ranged from increasing flows of investment and trade to cultural and scientific exchanges to opportunities for political and institutional dialogue. As the new decade progressed, the level of contacts intensified and quickly outgrew the framework of relations provided by the Partnership and Cooperation Agreements (PCAs) signed with the newly independent states in the 1990s. As a result, the need for a coordinated approach towards the countries of the East gained a degree of urgency, and in 2002 officials in Brussels and the national capitals acquired a mandate to devise a policy for the management of the Union's relations with the new eastern neighbours.

The formulation of such a policy, however, has not turned out to be an easy task. Here as elsewhere, the main difficulty in articulating a common foreign policy position stems from the fragmented nature of the European polity. As a collection of twenty-seven nation states governed by a set of interlocking institutions and a multiplicity of often contradictory policy processes, the European Union brings together a variety of actors pursuing diverging strategies in the eastern neighbourhood. At the supranational level, institutions such as the European Commission and the European Parliament often seek a role for themselves. They frequently behave in ways that advance their interests vis-à-vis other bureaucratic actors. At the national level, individual member states pursue different strategies in keeping with their long-standing national interests and foreign policy traditions. Their diverging historical experiences cause them to behave in often uncoordinated and even contradictory ways. At the sub-state level, actors such as private companies and other for-profit organisations are primarily driven by commercial gain. This is not to say that they do not simultaneously act in the interests of the member states in which they are domiciled. Finally, external actors such as the United States and Canada are also important players in the eastern neighbourhood and have a strong bearing on EU policy towards the former Soviet states. Indeed, one of the themes explored in this thesis is the complementarity of action engaged in by governments on both sides of the Atlantic.

While the neighbourhood policy is influenced by a variety of actors, it is at the same time shaped by a range of factors and concerns at both the upper and lower ends of the security spectrum. Considerations include soft security threats such as illegal immigration and the traffic in dangerous goods. They also comprise various political and economic objectives regarding access to strategic commodities like petroleum and natural gas, and the desire to promote free and fair elections as a way of tackling political instability and bad governance in nearby regions. EU activity in the eastern neighbourhood is explicitly motivated by the need to counter these and other perceived threats. The 2003 Security Strategy of the European Union provides a catalogue of concerns that drive EU external action, including in the post-Soviet space (European Council, 2003). It thus seems that there is no uniformity of purpose

and no singularity of agency behind EU policy towards post-Soviet Eastern Europe. The neighbourhood initiative is animated by a multiplicity of factors and a variety of actors who do not necessarily work in a coordinated fashion. This is perfectly at one with the EU's self-image as a multi-level, multi-perspectival 'post-modern' entity (Cooper, 2003).

Indeed, such is the diversity of interests and positions in the matter of foreign relations existing within the bloc that it can be argued that, strictly speaking, the EU does not have a foreign policy at all. What exists instead is the externalisation of certain internal policies, such as Justice and Home Affairs or Transport and Energy, and the involvement of selected neighbours in their implementation without the offer of immediate prospect of membership. For instance, cooperation among EU ministries of the interior to curb the influx of illegal migrants and asylum-seekers has been pushed up and into the realm of foreign affairs in an attempt to enhance the effectiveness of their cooperation. As a result, the European Union has since the mid-1990s at least practiced a form of 'immigration diplomacy' whereby neighbouring states have been induced to tighten their borders with countries further east and south in an effort to prevent more immigrant arrivals. The same goes for energy where the progressive liberalisation of the internal energy market and the concomitant need to diversify supplies has prompted the EU to give these policies an external dimension by engaging with neighbouring countries to transform their power-generating sectors so as to facilitate the bringing of new sources of energy to the single market. If a common foreign policy approach can be said to exist in the current European context, it is to be found at the level of these and other sector-specific initiatives rather than in the realm of grand strategy.

The focus of this study is EU relations with the largest and arguably most important eastern neighbour - Ukraine. As the most prominent of the Union's post-enlargement neighbours, Ukraine has received considerable attention in the chancelleries of the West, not least because of the country's location in the common external security space of both the European Union and the Russian Federation. The fact that Ukraine figures strongly in the security designs of Brussels and Moscow alike means that, with Enlargement, the question of Russia's significance in EU policy towards the country has

taken on a level of importance warranting extensive academic research. Indeed Russia looms large in Western thinking on Ukraine, and the question of its importance as a consideration or a factor in the formulation of a common position on Ukraine lies at the heart of this research. And yet, in the light of the preceding analysis, it is difficult to argue that the EU pursues a clear strategy in its relations with Kiev, let alone one that takes into consideration another state. Clearly, the EU is not a creature that thinks and acts strategically and from a single viewpoint in the manner of a unitary state. This is especially the case with Russia which, as is so often claimed, constitutes a divisive issue in Europe. Hence, to examine Russia as a factor in EU policy towards Ukraine one has to take a different route.

From Policy to Practice

As argued above, the newly launched neighbourhood initiative represents a "complex matrix of ends and means" where different sector-specific policies and solutions are deployed in response to a diverse, and not necessarily related, set of threats and concerns. It is a central contention of this thesis that the means are the ends in the making. This is to say that the policy tools and instruments employed by the EU in the eastern neighbourhood have a causal primacy in the present analysis. This study is concerned more with *how* the EU is able to advance its interests in Ukraine, as opposed to *what* these interests are or are claimed to be. The object of inquiry therefore is the variety of practical activities engaged in by the EU on its eastern periphery. These activities can take multiple forms exemplified by the twinning operations, instruments for legal and technical approximation, procedures for information exchange with the neighbours, infrastructure interconnection projects etc. deployed by the EU in recent years. They also include such techniques as election monitoring, parallel vote tabulation, and even negotiations that follow a roundtable format. Whatever their form and application, they all represent relatively established procedures and ways of going about things that point to the precise manner in which the EU seeks to promote its interests on the international stage.

It is worthwhile to study these technical programmes and initiatives on their own terms rather than as expressions of certain interests or values. Their significance lies as much in what is implied in their operations as in the explicitly stated objectives that govern them. The task then is to examine how these activities connect up into wider patterns of action; in other words, how a series of tactical moves on the part of the EU can lead to elements of strategy. Such a molecular or bottom-up approach to EU policy-making would serve as an alternative to focusing on the strategic rationalisations provided by EU commissioners, high representatives and heads of state (or even foreign policy analysts) in an attempt to justify or explain the Union's international behaviour. The method of analysis employed in this thesis therefore is characterised by a certain investigative empiricism whereby analysis is conducted, as much as possible, at the level of tactics where EU thinking is at its most practical and operational. In a nutshell, this research constitutes an investigation into the transformational activities engaged by the EU in Ukraine conducted with an eye to their strategic implications.

The transformative practices at the centre of this inquiry can have a number of effects. Of interest here are only those implications that bear upon Ukraine's existing and developing ties with Russia and that impinge on its participation in regional integration projects that are centred on Russia. The thesis documents and analyses specific EU activities in Ukraine in order to demonstrate how they affect, or can potentially affect, the country's eastern vocation and, by extension, East-West relations in general. It hypothesises that the EU is an agent of transformation in the eastern neighbourhood and that this transformation has important implications for the regional balance of power in Eastern Europe. While its object of study is situated in the domain of high politics in terms of the competition between states or groups of states for influence on the countries in the eastern neighbourhood, the way it actually goes about it is more akin to the discipline of international political sociology with its emphasis on issues of governance and administration. As such, this thesis is situated between those geo-strategic narratives of the interaction between the EU, Russia and the states in between found in the think-tank literature, and the various studies of EU external relations conducted from a governance or governmentality perspective.

The overall field within which this research lies is that of interstate relations, i.e. the domain of strategy and geopolitics. However, the approach it takes departs from traditional geo-strategic analyses in that it does not postulate a uniformity of purpose and a clear strategic vision on the part of the EU. Rather, it examines the transformational activities undertaken by the Union in Ukraine since 2000 as decoupled from any strategic intent and tries to discern their internal logic and implications. With some exceptions, the transformative practices at the centre of this inquiry have been largely ignored in the geo-strategic literature. Their technical, depoliticised nature is at odds with the sensationalism and melodrama of high politics. The international political sociology literature, on the other hand, has avoided questions of interstate competition and geopolitics, preferring instead to focus on identities, subjectivities, class relations and the like. By combining the two approaches, this thesis seeks to arrive at a novel conceptualisation of EU strategy in the eastern neighbourhood as something non-subjective, in the sense that it cannot be attributed to a particular actor, but nevertheless intentional and deliberate. By showing how individual EU practices in the eastern neighbourhood connect into a wider pattern of action that gives the bloc greater knowledge and control over developments in Ukraine and contributes to the dismantling of infrastructural and institutional ties between Ukraine and Russia, the thesis seeks to demonstrate that strategy in the EU context is something that can be known only through its effects.

Timeframe and Structure

The analysis presented in this thesis covers the period between the conception of the European Neighbourhood Policy in the early years of this decade until roughly the summer of 2006 which coincided with the end of the financial perspective for European Commission funding of projects in the former USSR, the so-called Technical Assistance for the Commonwealth of Independent States or TACIS programme. The start date is taken as the year 2000 since it was about that time that EU activity in the former Soviet space began to intensify. Even though the Commission and the member states ran programmes in Ukraine during the 1990s, they lacked the level of intensity

required to bring about meaningful change and tended to focus on what was considered to be priority areas at the time, namely, poverty alleviation and the environmental legacy of the Chernobyl nuclear disaster. The qualitative jump in EU commitment to the country in both administrative and financial terms arguably occurred round about the turn of the decade.

The chosen cut-off point for this research, on the other hand, is somewhat arbitrary as the explosion of EU programmes seen in recent years, and particularly since the coming to power of a pro-reform, pro-EU president in the person of Victor Yushchenko, has continued unabated right until the time of completion of this thesis. Indeed, one chapter – that on energy – makes occasional references to developments that occurred late in 2006 and early 2007. By and large, however, the thesis keeps to the timeframe indicated in the title as a safeguard against becoming hostage to unexpected events. That said, it is worth stressing that EU involvement in the politics, economics and administration of Ukraine set off by eastern enlargement is an ongoing process likely to continue in the foreseeable future, and that this thesis only captures its early phase.

The period between 2000 and 2006 saw important changes in the political atmosphere in which relations between Brussels and Kiev developed. Whereas the early years of this decade witnessed a great deal of optimism regarding the prospect of cooperation with the Russian Federation, it can now be said, with certain provisos, that at the level of European institutions and, especially where certain member states are concerned, the European Union has become openly hostile to Moscow. There are strident voices in Europe that urge the Union to define its interests in the eastern neighbourhood in ways increasingly antithetical to those of Russia. In many quarters, Moscow is identified as a source of danger which must be countered by greater action in the neighbourhood. These sentiments, however, do not currently represent the majority view in Europe as there are plenty of member states who take a more benign view of Russia. Until such time as the majority opinion swings decidedly in favour of the Russia sceptics and the Union reaches a common position to act in Ukraine on an overtly anti-Russian basis, official EU policy towards the states in between can be expected to remain neutral. This has certainly been the case for the duration of my doctoral research.

In terms of structure, this thesis adheres to the following outline: the next chapter provides the conceptual frame of reference used to analyse EU activity in the eastern neighbourhood. It offers an overview of the theory of structural realism followed by general notes on certain approaches in the social sciences associated with the study of modern liberal governance. The second chapter examines the political setting in which EU decision-making on Ukraine takes place. It outlines the main interests of the various actors inhabiting the European arena and situates them in the context of the different issues and processes that shape EU external activity. The third chapter deals with the question of policing the outer perimeter of the eastern neighbourhood. This empirical chapter examines the impact of EU Justice and Home Affairs-related activities on the cross-border relations in the Ukrainian-Russian borderland. It is followed by an investigation into the programmes and initiatives launched by the EU in recent years and directed at the restructuring of Ukraine's energy sector. The chapter shows how efforts to integrate a key sector of the Ukrainian economy into the larger EU market can have knock-on effects on Kiev's economic and political relations with Moscow.

The last empirical chapter examines the modalities of EU involvement in the Ukrainian political process prompted by the 2004 presidential election crisis. It demonstrates that the electoral intervention mounted by the European Union in 2004 facilitated a change of political leadership in Kiev and that this change had important consequences for the balance of power in the region. The three case studies examined in the thesis, namely, borders, energy and elections, are selected not only because they are deemed priority areas for the Union and therefore make up the bulk of EU activity in the country in recent years, but also because they represent sensitive areas in the complicated relationship between Ukraine and its giant neighbour to the east. An additional advantage of focusing on these issues is that they represent areas of low and high politics and thus offer a full picture of how the European Union is able to bring about comprehensive change in its vicinity. The concluding chapter at the end ties the analytical threads that run through the entire thesis and assesses the overall impact of EU activity in the region.

CHAPTER I

THEORETICAL FRAMEWORK FOR ANALYSING EU ACTIVITY IN UKRAINE

The foreign activism of the European Union presents a challenge to the mainstream schools of international relations theory. Their explanatory power, derived from the study of the state in interaction with other states, is rendered somewhat ineffective by the complex nature of the European polity and the ambiguity of the post-Cold War security environment in Europe. Shaped by a swirl of intergovernmental and supranational forces and processes, and driven by a security agenda dominated by twenty-first century non-territorial threats, EU activity in the eastern neighbourhood defies traditional analysis in terms of its irreducibility to a single set of imperatives and the means for their realisation. The sheer complexity of the EU decision-making milieu, together with the multiplicity of new security concerns providing an impulse for external action, call for alternative ways to study how the Union operates beyond the boundaries of its present geographical and institutional expansion. At the same time, old themes of interstate competition and conflict, specific to the region under investigation and rooted in its history and geography, persist and continue to define the strategic environment in which the EU seeks to make its presence felt. To ignore them is to miss an important part of the security dynamics in the eastern neighbourhood. The continued salience of such issues and their importance in understanding the basis of the regional order in far eastern Europe require that the new security paradigm of transnational challenges and the responses they elicit from political authorities at every level be considered alongside the old.

The aim of the present chapter is to introduce the theoretical framework and conceptual tools used in later chapters to study EU activity in Ukraine. The chapter seeks to synthesise the theoretical insights provided by the tradition of political realism with certain post-foundational approaches in the social sciences associated with the study of modern liberal governance. This is done with a view to achieving a close correspondence between the empirical data presented in subsequent chapters and the conceptual frame of reference used to interpret them. A discussion of the main tenets of the theory

of structural realism serves as a starting point for the synthesis. These are then shown to be inadequate to satisfactorily explain the manifold character of EU involvement in the politics, economics and administration of its eastern neighbour. Next, the chapter goes on to consider how a realist perspective on the external activities of the European Union can be infused with themes and concepts derived from the literature on governmentality. It is argued that whilst the two approaches operate on the basis of rather different philosophical assumptions about the nature of social and political reality, they nonetheless share enough in the way of a general pragmatic attitude towards international political life to justify this eclecticism. The chapter ends with some notes on methodology.

Structural Realism

The tradition of political realism has long informed the study and practice of international politics. Founded on a set of principles guiding political action, realism has evolved into a full-blown theoretical model for analysing foreign affairs in a systematic and coherent fashion, most clearly illustrated in its neo-realist or structuralist variant. Structural realism is a general theory of international relations that advances a particular understanding of the forces at play in world politics and the way in which these forces shape and direct international conduct. This understanding of the world presupposes certain notions of agency, strategy and political power which collectively constitute the doctrine, or grammar, of structural realism. The following paragraphs seek to reconstruct the realist argument from some of the main texts of the neo-realist tradition. The aim is to reveal structural realism's limited or partial applicability to the object of this study, i.e. EU activity in the eastern neighbourhood, and thereby to indicate where it could potentially benefit from the insights provided by alternative theoretical models.

Much of realist theorising on international politics is bound up with the notion of the state. Structural realists attach enormous significance to the state and its institutions in their analysis of how the international political realm is organised. States dominate the international scene in realist thought, so much so that realists have designated them "the units whose interactions form the

structure of the international political system" (Waltz, 1979: 95). The significance of the state in realist analysis stems not so much from the volume of official transactions taking place among state bureaucracies as from their alleged ability to set the rules governing exchanges between all participants in international life. Multi-national corporations and non-governmental organisations, trans-national social movements and civil society groups, private individuals and other non-state entities all supposedly operate within the framework created and re-created by states, particularly the larger ones (Waltz, 1979: 95). This is as true in the military and diplomatic realms as it is in other areas of international life, such as international trade, for example, whose structure is understood to be determined by the arrangements that states have made amongst themselves (Krasner, 1976: 317).

Moreover, the centrality of the state in realist analysis accounts for the peripheral role ascribed by realists to non-state participants in the global exchange of material and symbolic resources. The latter are perceived as largely subservient, if not directly reducible, to the institutions of the state, and as endowed with only a limited capacity for autonomous action. Thus multi-national corporations become "nationally based firms that operate abroad" (Waltz, 1979: 151), whilst international organisations are seen "above all [as] tools of national governments" (Susan Strange quoted in Waltz, 2000: 24). In the same vein, realists cite as evidence for the primacy of the state the fact that social movements are often captured by individual nations, that international programmes are inevitably manipulated by national governments, and that ideology ultimately becomes a prop to national policy (Waltz, 1979: 173). It follows from the preceding analysis that the study of international politics should be conducted in terms of entities that exhibit the basic attributes of a state, i.e. control over a fixed territory with sharp boundaries separating it from its external environment, or else that can be shown to be institutionally substitutionable for the state (Ruggie, 1993: 143). This understanding of the state as the main unit of analysis in international relations is held as an article of faith by adherents of the realist tradition.

Having established the state as a central feature of the international political landscape, realists proceed to imbue it with the qualities of a unitary and purposive actor. In structural realism, the state has the capacity to act

abroad as a single entity. Its foreign activity is monopolised, or is at least tightly controlled, by a state apparatus which has the exclusive right to define the national interest and to act in pursuit of, what appears to be, a unified set of objectives. The positing of a national interest and the subordination of all foreign business to its imperatives suggest that the state 'sees' and acts from a single perspective, that is, a perspective from the point of view of a single subjectivity capable of generating its own ends (Ruggie, 1993: 159; Ashley, 1984: 243). Likewise, the ability to organise and deploy resources in order to attain established objectives signifies that the foreign activity of the state is necessarily intentional, purposeful and rational. The desire to achieve the right disposition of means that lead to convenient foreign policy ends points to the conclusion that state action is guided by a form of instrumental rationality. This rational-utilitarian conception of the foreign activity of the state, together with the mono-perspectivalism that underpins it, is considered by realists to be one of the chief hallmarks of statehood.

Inhabiting international political space with unitary and purposive actors marching to their own drumbeat has significant implications for the environment in which interstate relations take place. Because states arrive at policies and decide on actions according to their own internal processes, and without the mediation of a regulatory authority or a coordinating agency of some sort, they frequently end up working at cross purposes with one another (Waltz, 1979: 65). The resultant structure of international relations is a highly competitive one, in which states constantly frustrate each other's efforts to realise their respective national interests. The situation is exacerbated by the condition of economic and security interdependence that most states find themselves in, a condition that multiplies the occasion for conflicts, leading to resentment, hostility and, ultimately, war. The effects of interdependence are particularly strong as a result of geographical proximity which prompts countries to treat each other's actions as events of tremendous significance for their own security and therefore to attempt to control them (Waltz, 2000: 14). The international system then creates powerful incentives for aggression (Mearsheimer, 1990: 12) which frequently materialise in acts of violence and the use, or the threat of use of, military and other force in the settlement of international disputes.

This view of international politics as a competitive realm where relations of strength, as opposed to relations of authority and law, prevail (Waltz, 1979: 113) brings out a certain notion of political power shared by most scholars of realist persuasion. Power is a key term in the realist lexicon and its exercise boils down to the ability to harm, conquer, enslave and destroy others (Grieco, 1993a: 126). Power is thereby defined by realists in exclusively negative terms. States wield power against other states in a manner that disregards their interests and represses their natural inclinations. Hence, in structural realism political power becomes repressive power: it is instantiated through domination and experienced as oppression. The coercive or tyrannical exercise of power and the ubiquity of conflict and war in international politics are important background conditions defining the environment in which states conduct their affairs.

Although the international system is a product of the actions taken by individual states, it in turn has a determining impact on their behaviour. Faced with the constant threat of offensive military or other action against them as part of the coercive diplomacy practiced by their adversaries, states naturally become preoccupied with their own survival. Realists posit survival as the mainspring of state action and the ultimate measure of success of state policy. In an environment where security is always under threat, "survival is a prerequisite for achieving any other goals that states might have" (Waltz, 1979: 91). For realists, the prioritisation of survival and the premium put on national security find expression in virtually every aspect of states' foreign activity. Foreign policy in this context takes the form of strategic action illustrated by the manoeuvring, bargaining, threatening or counter-threatening, and, ultimately, fighting that states engage in in order to resist or undermine their adversaries.

The strategies for survival adopted by states, whether they involve the use of force or not, represent a deliberate attempt on the part of those who formulate them to check the power and influence enjoyed by potential or actual rivals. The balancing of power is a recurring theme in realist discourse where the opposition of forces is presented as an immutable fixture of international political life (Wohlforth, 1994: 95). In order to improve their chances of survival, states take whatever actions are necessary to weaken their opponents, leading the latter to reciprocate by counterbalancing them.

The resultant pattern of state interaction is characterised by shifting relations of strength in which the overall distribution of power tends towards equilibrium, prompting realists to declare that "international politics abhors unbalanced power" (Waltz, 2000: 28). Balancing in this scenario is a technique whereby states deploy whatever resources they have at their disposal, and, if possible, forge alliances with other states, in an attempt to forestall the strategic initiatives of their rivals. Equating statecraft with the ability to efficiently translate established foreign policy goals into appropriate external action has invited criticism that realists reduce international politics to "a battleground for the self-blind strategic clash of technical reason against technical reason in the service of unquestioned ends" (Ashley, 1984: 279).

Because maintaining an equilibrium of power is ultimately a question of resources, realists pay careful attention to the distribution of capabilities among states in the international system. Capabilities acquire a special significance in realist theory as a result of two related claims made by its proponents. One is that states are differentiated according to their military and economic potential and not their other attributes; all units in the system have the same interests but not the same resources to match them, which is why structural realists abstract from every attribute of states except their capabilities (Waltz, 1979: 99). The other is that the uneven distribution of capabilities among states is the only reliable guide to their behaviour in the sense that how states carry themselves on the world stage can be safely deduced from their greater or lesser ability to project power and influence. The assertion that "states are alike in the [external] tasks that they face though not in their abilities to perform them", and the related argument that capabilities have causal precedence over other factors in explaining how states interact, have led structural realists to boldly declare that "[d]ifferences of national strength and power and of national capability and competence is what the study and practice of international politics is almost entirely about" (Waltz, 1979: 143).

Structural realism is a 'capabilities-based theory' (Wohlforth, 1994: 105) used to analyse how the distribution of power among states determines the type of order existing in the international system at any one time. Power here is understood in terms of the capabilities or means, particularly military ones,

which states acquire in order to maintain their security and achieve their objectives. While realists do acknowledge that state power is not reducible to warfighting capabilities alone, and that it contains vitally important non-material elements as well (Wohlforth, 1994: 97-8), they nevertheless tend to prioritise such capabilities as can be used by states to deprive, damage or destroy their opponents. Maintaining strategic parity is essential for survival in the international system, and this is why states are said to be particularly sensitive to asymmetries in each other's military and economic capabilities and why they actively seek to prevent the occurrence of any power differentials that confer strategic advantage on their competitors.

For realists, the discipline of international relations is synonymous with the study of power politics, where power is thought of in comparative, not absolute, terms. States do their utmost to lessen the power deficit that sets them back in relation to other states and, where possible, to preserve or even widen the gap in capabilities between themselves and their opponents in order to strengthen their position in the international system. Structural realists describe states as defensive or, inversely, as offensive positionalists who assess their performance in terms of the performance of others (Grieco, 1993a: 127). They argue that states would be unwilling to enter into cooperative arrangements that, albeit beneficial in absolute terms, may in the long run lead to the erosion of their comparative capabilities. National security is compromised as a result of partnerships which yield higher payoffs to potential adversaries who then may use their increased capabilities to harm or destroy their partners. States are therefore ill-advised to cooperate on terms more advantageous to others than to themselves lest the "absolute gain but relative loss [they incur] today become an absolute loss tomorrow" (Powell, 1993: 229). Any limited cooperation that does take place in international relations, according to realists, is nested within military and diplomatic alliances because of the security risks that such cooperation entails. This last point is allegedly borne out by the phenomenon of international commerce which, by way of its closed and fragmented structure, corroborates the realist claim that for states "trade with an adversary produces a security diseconomy [while] trade with an ally yields a positive externality" (Gowa, 1994: 6).

Realist theory highlights another important aspect of capabilities that bears directly on the way countries conduct their external affairs. The unease with which states approach international cooperation is motivated not only by concerns about relative losses incurred as a result of cooperation with other states but also by the possibility that the latter might translate their gains into capabilities in other, strategically more important, areas. The ease with which capabilities pertaining to one issue area can be put to use in another is a measure of their 'fungibility', defined by realists as the capacity to convert gaps in capabilities into influence across multiple domains (Grieco, 1993b: 324). Fungibility allows states to utilise their limited resources in the most efficient manner possible by deploying the same means in the pursuit of different external objectives. The use of foreign policy instruments outside their normal field of application is illustrated by the fact that "[s]tates [regularly] use economic means for military and political ends, and military and political means for the achievement of economic interests" (Waltz, 1979: 94). By showing how states use levers of 'soft' and 'hard' power alike to advance their national interests abroad, realists in effect collapse the distinction often drawn between matters of high and low politics defined in terms of those issues that affect the survival of states and those that do not. The effect of this is to dramatise all aspects of interstate relations and render them intensely political.

While neo-realism has arguably retained its explanatory power long after the end of the Cold War (Waltz, 2000), when it reigned supreme, it is questionable to what extent it can, in the form outlined above, serve as a useful guide to EU activity in the eastern neighbourhood. Analyses that present the Union as a unitary and purposive actor in Ukraine moving to counterbalance Russian power and influence there only highlight the limitations of a traditional realist approach. EU activities in the region show little in the way of clarity of purpose and uniformity of strategy that would befit a state-like entity engaged in strategic action. The theoretical insights provided by structural realism, therefore, seem anachronistic and obsolete, and need to be modified if they are to be of any use when analysing EU policy on Ukraine. They are to be modified not only because of their avowed state-centricity which is quite at odds with the reality of the European Union as an international association of growing membership, but also because of

realism's commitment to a nineteenth century philosophical understanding of power that is very different from the manner in which power and rule are exercised in the early twenty-first century by coalitions of so-called 'advanced liberal democracies'. This, of course, is not to say that old forms of rule have been completely abandoned, only that they no longer constitute the norm of foreign policy behaviour. If an analysis of the EU's external relations is to remain relevant to today's realities, it needs to depart from the neo-realist orthodoxy in some significant ways while still retaining some of the doctrine's basic tenets. The remainder of this chapter focuses on the political practices that characterise modern liberal rule and that arguably lie at the heart of EU activity in Ukraine, and contends that they are consistent with the fundamentals of the realist tradition.

Multilevel Governance

To understand the workings of modern liberal rule, however, it is necessary to turn away from the issue of statecraft that characterises realist thinking and to explore the question of governance. Much of the governance literature holds that the traditional or realist perspective on global politics has little resonance for the development of international affairs after the 1970s. The neorealist view of international politics, where states are endlessly entangled in often violent confrontation within an anarchic environment, is rejected by those engaged in discussions of governance. The main critique of the statist view of international relations is that the central position of both the state and war has been undermined by new patterns of global politics far removed from the traditional tales of balance-of-power politics (Welch and Kennedy-Pipe, 2005: 131).

At the forefront of this attack from the governance school in IR is a theoretical perspective commonly referred to as multi-level or multi-tier or polycentric governance. The term multi-level governance emerged in the study of the European Union. Its explanatory power lies in conceptualising the relationship between different levels of authority within the Union. However, multi-level governance has outgrown its origins in the study of the EU and is now being understood in a wider context. The same concepts and ideas that have been applied to understanding the internal operations of the evolving

European polity can be extended to the position of the EU in the international system. The following paragraphs will draw the contours of the multi-level governance approach with the aim of elucidating EU external activity.

One of the major points of disagreement between structural realism and the theory presented in this section concerns agency. Multi-level governance has a wider cast of actors than traditional models of intergovernmental relations. It posits an array of entities other than the state, ranging from private business, voluntary associations, organised interests, single-issue pressure groups, etc., active across an ever-widening array of issues and concerns. Rosenau identifies eight types of collectivities that crowd the global stage: 1) public sub-national and national governments founded on hierarchical structures formally adopted in constitutions; 2) for-profit private transnational corporations formally and hierarchically structured; 3) international governmental organisations based on formal treaties and charters; 4) sub-national and national not-for-profit NGOs sustained by either formal by-laws or informal, undocumented arrangements; 5) international or transnational not-for-profit non-governmental organisations either formally structured as organisations or informally linked together as associations or social movements; 6) markets that have both formal and informal structures; 7) organised or unorganised elite groups; 8) mass publics that form briefly in response to specific issues (Rosenau, 2005: 42). Multi-level governance sees governmental institutions engaging in direct communication with the other types of actors, to the point where

world affairs can be conceptualised as governed through a bifurcated system, what can be called the two worlds of world politics, one a system of states and their national governments that has long dominated the course of events and the other a multi-centric system of diverse types of other collectivities that have lately emerged as rival sources of authority that sometimes cooperate with, often compete with, and endlessly interact with the state-centric system. Viewed in this context of proliferating centres of authority, the global stage is thus dense with actors, large and small, formal and informal, economic and social, political and cultural, national and transnational, international and sub-national, aggressive and peaceful, liberal and authoritarian, who collectively form a highly complex system of governance on a global scale (Rosenau, 2005: 32).

In the face of such a multiplicity of agents it has become harder to sustain the image of states as the pre-eminent actors on the global stage.

The multi-level governance literature counters the realist premise that national bureaucracies are the prime source of governance by contending that, for all its continuing authority and legitimacy, key dimensions of the power of the modern state have undergone considerable diminution. Central executives of states do not do all the governing but share and contest responsibility and authority with other actors, both supranational and sub-national. This is accomplished through a process of dispersion whereby state authority is effectively dispersed both above and below the national state to jurisdictions at a number of levels. Centralised authority has thus given way to new forms of governing. Formal authority has been dispersed from central states up to supranational institutions and down to regional and local governments (Marks and Hooghe, 2005: 15). Importantly, the dispersion of governance across multiple jurisdictions and scales takes place both vertically, to actors located at other territorial levels, and horizontally, to non-state actors. The multi-level governance concept thus contains both vertical and horizontal dimensions.

The flow of authority upwards, downwards and sideways involves the break-up of traditional hierarchies based on distinct patterns of command and control. While realism refers to the political control of a centralised state, multi-level governance denotes the coordination of relations in the absence of a unifying authority (Bache and Flinders, 2005b: 198). The tangled hierarchies and complex interrelationships that result from the process of dispersion described above are often held together by informal negotiations as opposed to compulsory allocations of power enshrined in laws. The negotiated character of the interactions among actors at different levels means that the outcomes of the process are often bargained and not imposed. The negotiated rather than compulsory mode of authority, and the fragmented as opposed to centralised and hierarchical, distribution of that authority in multi-level systems of governance such as the EU, amounts to, what Jessop terms, a veritable de-statisation of politics in which the state loses its hegemonic role in the formulation and implementation of policies (Jessop, 2005: 57).

This is, of course, in no way to suggest that states are headed for demise. On the contrary, multi-level governance theorists acknowledge the

staying power of the national state. For a start, the remit of sub-national or private entities seems to be largely confined to one issue-area, namely that of the international political economy. In all other areas, states seem reluctant to provide private actors with true governance authority outside their control. National governments have a say over what powers are dispersed upwards, downwards and sideways and they do exercise this control to pass on some responsibilities while retaining others. Similarly, the empowerment of non-state actors should not be overstated. As argued by George, it is important not to exaggerate the extent to which they have been liberated from national central governments in trying to have an impact on policy (George, 2005: 122). A distinction should thus be drawn between multi-level governance and multi-level participation, where the latter signals greater involvement without effective influence. Even where non-state actors are involved in policy-making and do take part in the informal bargaining that attends it, the more powerful players, usually state executives, are still able to dominate the process. The fact that the negotiated order characteristic of polycentric systems is often dictated by the stronger players has prompted scholars to conclude that "multi-level governance takes place in the shadow of national governments" (Jessop, 2005: 54).

While multi-level governance theorists avoid speaking of the eclipse of the nation state, they do emphasise the structural transformation and strategic reorientation of statehood they believe has taken place in modern day Europe. State power remains important, but how it is exercised is increasingly complex. The vertical and horizontal dispersion of authority has created a new administrative landscape in which states have undergone transformation into managerial entities. Peters and Pierre argue that "managing multi-level governance becomes a matter of integrating processes at different institutional levels [...] in ways which promote the interests of the system overall" (Peters and Pierre, 2005: 78). The role of governments in this scenario is to coordinate or orchestrate policies by steering multiple agencies, institutions and systems in the direction they desire. This understanding of the steering role of the state is what distinguishes multi-level and polycentric from state-centric and simple governance.

Adherents of this approach put forward the notion of meta-governance as a way of explaining the changing role of state executives. Variably defined as 'providing the ground rules for governance' or 'organising the conditions for self-organisation', meta-governance refers to the increased role of states in shaping and regulating the activity of autonomous agents across multiple scales. "This involves managing the complexity, plurality, and tangled hierarchies found in [polycentric systems]. It is the organisation of the conditions for governance and involves the judicious mixing of market, hierarchy, and networks to achieve the best possible outcomes from the point of view of those engaged in meta-governance" (Jessop, 2005: 70). In practice meta-governance means acting as the primary organiser of the dialogue among policy communities, coordinating different policy formulation and implementation processes and ensuring a minimal coherence among them, as well as engaging in strategic selectivity, defined as asymmetrical privileging of some outcomes over others. This last function illustrates the unequal nature of relations between state and non-state actors.

For all its talk of self-regulation and joint decision making, the multi-level governance concept connotes hierarchy, although this hierarchy is more complex and contextually defined. Different forms of self-organisation characteristic of polycentric governance take place in the 'shadow of hierarchy' as the diffusion of authority is often directed from a particular locus of power, usually central executives. The division of labour, competence and jurisdiction among different actors, arenas and institutions takes place under the overseeing eye of the state, prompting some to state that multi-level governance should not be "seen as an alternative but as a complement to intergovernmental relations" (Peter and Pierre, 2005: 76). Proponents of this theoretical tradition envisage three types of governance: top-down, in which authority emanates mainly from the halls of state governments and in which non-state entities act as satellite organisations; bottom-up, where the source of governance can be traced to the activities of NGOs and transnational advocacy groups and where national governments are mere policy ratifiers; and thirdly, what has been called, network governance which

occurs when the impetus to steer a course of events derives from networked interactions across [different] levels [...] that are elaborate and diverse enough to constitute a hybrid structure in which the dynamics of governance are so overlapping among the several levels as to form a singular, web-like process that neither begins nor culminates at any level of at any point in time (Rosenau, 2005: 43).

Put simply, rather than involving the transfer of authority up to a supranational superstate like the EU that supplants existing nation states, one should think of the EU as a whole operating as a network state, i.e. a state that shares authority along a network.

Indeed, the European Union is increasingly seen as a major and important supranational instance of multi-level meta-governance in relation to a wide range of complex and interrelated issues. Resembling neither domestic polities nor international organisations, and therefore defying explanation from approaches applied either to politics within states or politics between states (Bache and Flinders, 2005a: 1), meta-states such as the European Union engage in strategies of coordination, steering and networking in an attempt to shape the nature of their external environment. Because the international context of domestic policies has become significant strategically for their internal effectiveness, network states seek to manage a widening range of extraterritorial or transnational factors and processes. The next section turns to a set of theories that deal with the precise manner in which this extraterritorial exercise of power occurs.

Theories of Modern Liberal Governance

The theories presented in this section relate to a mode of exercising political power prevalent in and among present-day European polities. Unlike structural realism, these theories do not constitute a single coherent doctrine but fall instead under the general rubric of post-structuralism - a theoretical broad church bringing together various approaches in the social sciences that eschew the search for an underlying essence or a cause. Likewise, theories of liberal governance do not emanate directly from the study of international relations. Rather they have their provenance in the disciplines of political science and sociology and have subsequently found wider application across

the social sciences as a whole. As such, it is claimed, they can be applied "as much to geopolitical issues as to those within any national territory" (Rose and Miller, 1992: 178). Their interdisciplinary character makes them particularly suitable for studies such as this one, spanning as it does the entire spectrum of EU intervention in the politics, economics and administration of Ukraine. The following paragraphs address several themes that run through the literature on governmentality and are closely identified with the study of liberal rule.

The control exercised over foreign territories and populations as part of the coercive diplomacy envisaged by realism covers a range of measures from issuing threats, to imposing embargoes and blockades, to outright military occupation. Such practices are decidedly illiberal in that they involve heavy-handed intervention in the affairs of other states. By contrast, liberalism is associated with a political philosophy that places limits on the legitimate and desirable exercise of power by political authorities (Rose and Miller, 1992: 179). Having said that, theories of contemporary governance do not treat liberalism as a theoretical doctrine or an ideology in the style of Friedman and Hayek, but rather as a practice or a 'way of doing things'. A distinguishing characteristic of the manner in which liberalism does things is its frugality. Liberal government is frugal government concerned with "maximising its effects while diminishing, as far as possible, its costs understood in the political as well as the economic sense" (Foucault, 1994: 74). Governing as much as possible and at the least possible price is achieved by involving the countries and populations one wishes to control in the exercise of their own government, a strategy that theorists of contemporary governance term 'advanced liberal'.

Advanced liberal modes of government are heavily reliant on the agency of the governed themselves (Dean, 1999: 66). No international actor can expect to advance their interests in another country efficiently and with maximum economy without the complicity of that country's inhabitants, whether they be ruling elites or the population at large. The latter therefore are engaged in a process of convergence where they begin to align their interests and aspirations with those of the dominant power and thereby become active in their own government. This absolves the ruling power not only of the

obligation to administer a given territory on a day-to-day basis but also of the responsibility should anything go wrong there (Rose, 1999: 174). Instead of total domination and control, the aim is to shape and direct the conduct of the governed as well as to enhance their capacity to govern themselves. Relying on the self-governing capacities of foreign regimes and populations, however, presupposes their continued enjoyment of a large measure of autonomy in deciding what best serves their interests. Scholars of advanced liberalism argue that far from being an antithesis of political power, autonomy in fact plays an important part in its operations (Rose and Miller, 1992: 174). Indeed, the ability of the governed to act of their own free will is considered a key term in the exercise of contemporary liberal rule, and as such occupies an important place in post-structuralist thought.

The notion of freedom has a specific meaning within studies of advanced liberalism which is different from the everyday usage of that term. Theorists of modern liberal governance distinguish between 'freedom as a formula of resistance' and 'freedom as a formula of power'. The former refers to an ideal exalted by liberation movements in their struggle against oppressive regimes, whereas the latter relates to a mode of governing where freedom operates not only as a value but as part of a technology of rule (Rose, 1999: 65). Scholars of advanced liberalism take the latter, instrumental view of freedom when they put forward the seemingly paradoxical notion that entire countries and their populations can be governed from outside through freedom. Freedom becomes an instrument of rule when the governed start to conceive of their national interest as consonant with the interests of the external power and so begin to actively engage in their promotion. The governed are, of course, free to act otherwise, but their choosing not to do so marks them, in the eyes of the said power at least, as competent and responsible choice-makers capable of dealing with the consequences of their own actions. In fact, subjects of liberal rule are not merely free but are obliged to be free in terms of the responsibility they are expected to assume for the choices they have made (Rose, 1999: 87). The role of the external power in this scenario consists in encouraging the governed to make independent choices and in helping them to translate these choices into action.

This understanding of freedom as an 'artefact of government' (Rose, 1999: 63) involves a re-definition of political power away from notions of coercion or domination and closer to the idea of consent. Theorists of modern liberal governance denounce as 'extremist' the uni-dimensional notion of power as repression found in realism (Michel Foucault in Dean, 1999: 25), and propose in its stead a kind of power that states bring to bear upon each other which does not "crush their capacity to act, but acknowledges it and utilises it for its own objectives" (Rose, 1999: 4). Contemporary regimes of liberal governance, be they international or domestic, thrive on this type of power, i.e. a positive, productive, empowering power that does not detract from the capabilities of the governed but, on the contrary, augments and enhances them. Instead of strategic deployments of coercion designed to silence, subordinate and enslave others, 'advanced liberal democracies' extend their sway over foreign governments and populations by recognising their desires, aspirations and interests and adjusting their policies to them. Despite the apparently consensual and mutually beneficial character of the ensuing relations with the governed, these relations are still based on power which, as argued above, works its effects indirectly and through non-violent means (Dean, 1999: 69).

The ability to affect external developments indirectly and without undue interference in the internal affairs of other states is a central feature of advanced liberal rule. 'The art and practice of indirect government' (Walters and Haahr, 2005: 9) consists in regulating, but not directing, the conduct of others in order to exercise control over their actions without at the same time being responsible for them. Liberal regimes are able to perpetuate their rule over foreign territories and subjects by utilising already existing national institutions and structures rather than creating new ones. In advancing their interests on the international stage, dominant powers make extensive use of 'indigenous authorities' by implicating national and local governments in projects of 'reform' designed to improve their political and material problem-solving capacities in order then to be able to tap into them (Lavenex, 2004a: 694). In so far as they are successful in co-opting indigenous elites and constituencies, liberal polities can extend their influence well beyond the confines of their national borders, thereby acquiring the capacity to 'act at a

distance' understood in both the spatial and the figurative sense (Rose, 1999: 50). Action at a distance is a key component of modern liberal rule and is predicated on the establishment of linkages and the forging of lasting alliances between authorities at various levels both in the ruling polity and in the territories where that polity seeks to make its presence felt.

Remote governing or governing at a distance relies, as previously argued, on the co-optation of others and on their inclusion into 'networks of consent' where all parties can translate each other's values into their own terms and thereby make the relationship work to everyone's advantage (Rose, 1999: 50). Power in contemporary international relations derives to a large extent from the ability to weave foreign agencies, practices and infrastructure into cooperative networks based on shared norms, standards and interests. If international actors can successfully "build, maintain and expand these networks so that they can act at considerable distances" (Agnew, 1999: 511), they would effectively open lines of force across wide geographical, political and economic spaces that would enable them to act even in remote locations. The longer and more reliable their chain of command, the greater the control they would have over events and developments in far away places. Dispersed, de-territorialised and de-centred, these webs of networked power on which modern liberal rule depends for its operation go beyond the state as a political institution and involve entities who often do not form part of the formal apparatus of government.

Consistent with the post-structuralist tradition, and in marked contrast to neo-realism, theories of advanced liberal rule maintain that contemporary "government is accomplished through multiple actors and agencies rather than a centralised set of state institutions" (Dean, 1999: 27). Scholars of modern liberal governance challenge the centralising image of political power emanating from structural realism's statist assumptions. Far from being concentrated exclusively in the chancelleries of large states, political power, it is argued, resides in a complex set of relations in which civil society actors have a prominent place alongside the state (Walters, 2004: 159). Modern systems of rule increasingly rely on self-organising networks of intermediate entities that span the divide between state and civil society and between the public and the private sphere. These actors range from various quasi- or para-

governmental agencies receiving funds from both state and private sources, to voluntary associations of like-minded individuals supported by grants and foundations, to for-profit organisations and corporate entities which compete in subcontracting tenders organised by public institutions. International "politics is [thus] seen as increasingly involving exchanges and relations amongst a range of public, private and voluntary organisations, without clear sovereign authority" (Rose, 1999: 17).

At the same time, the state-centric and military-political focus of structural realism is challenged by the rising profile of a plethora of regional and global organisations and institutions that increasingly play a pivotal role in the conduct of international affairs. Rather than being dominated by a handful of powerful states, the contemporary diplomatic scene features a multiplicity of international associations and strategic alliances between sub- and supra-national authorities who work hand in glove with national governments to achieve common ends. Modern liberal governance operates through a series of interlocking and proliferating agencies that engage in informal behind-the-scenes policy preparation and that act as forums for exploring new ground, overcoming disagreements and building consensus. The involvement in foreign affairs of various civil society groups and other actors beyond the state gives credence to the post-structuralist argument that "to examine liberal regimes of government is to conduct analysis in the plural" (Dean, 1999: 27). This pluralism associated with contemporary modes of governance encompasses the diverse ends, means, and purposes sought by different and often disputatious authorities. Because of their heterogeneous nature, liberal polities, or coalitions thereof, are rarely able to conduct their external affairs from a single, fixed viewpoint, thereby prompting speculation about the advent of the 'multiperspectival polity' (Ruggie, 1993: 172).

The ability to see and act, albeit from different perspectives, is central to the activities of modern liberal government. Advanced liberal modes of rule are predicated on the continuous monitoring and surveillance of the activities and conduct of the governed. The exercise of power over distant territories and populations involves turning the social and economic transactions taking place among them into objects of knowledge that can be observed and analysed (Barry, 1993: 321). Transforming the institutions, economies, and infrastructure

of foreign countries into observable spaces enables liberal regimes of power not only to know more about those whom they seek to govern, but also to act pre-emptively and reduce the likelihood of irresponsible abuses of freedom occurring (Walters and Haahr, 2005: 55). By showing how external events and processes are visualised and rendered in a form in which they can be evaluated, diagnosed and acted upon, theories of advanced liberalism "capture the sense in which seeing and doing are bound into one complex" (Dean, 1999: 30). Extending one's field of vision well beyond the institutional confines of a liberal polity is accomplished through the gathering of statistics and the production of other quantitative information. Data from local sources are relayed to regional centres of comprehension where they are stored in databanks and used for the purposes of government. How this is achieved, of course, is a technical matter involving the establishment of complex apparatuses for measuring and recording human and material traffic and for turning this traffic into streams of numbers, figures and statistics.

One of the main insights into the workings of political power offered by the literature on governmentality is that in realising its objectives modern liberal government is guided by a form of technocratic rationality. Theorists of advanced liberalism recognise the fact that contemporary regimes of rule have an important technical or technological dimension that needs to be studied alongside the more formal and headline-grabbing aspects of international politics. In fact, they specifically urge students in the political sciences to lower their eyes from the 'grand and airy' declarations of diplomats and politicians and examine instead the technical and more mundane aspects of contemporary governance that have to do with the precise manner in which modern regimes of power are instituted and rendered functional (Rose, 1999: 226; Rose and Miller, 1992: 183). In other words, analyses of contemporary forms of rule are to be conducted at the level of technology where political thought is at its most practical and operational.

As with the term 'freedom', the meaning of the word 'technology' in post-structuralism is different from its common everyday usage. Rather than just signifying a piece of equipment, hardware or the knowledge required for its production, technology is understood in a much broader sense as any pragmatic solution to a specific problem or indeed as a routine way of going

about things (Foucault, 1984: 255). This definition covers a wide range of practices from specific 'hard' technologies of surveillance, training and assessment, to more general forms of administrative expertise and know-how, to all manner of mundane bureaucratic and organisational procedures that make governing possible. Taken together these measures and devices comprise the complex instrumentation of modern liberal rule.

A feature shared by all analyses of political power that foreground technology is that this technology is viewed primarily as activity. Technology represents a structured form of action guided by instrumental knowledge or rationality. This rationalised and formalised activity is a type of power which in its exercise involves a whole set of instruments, techniques, procedures and applications. The manifestation of power through technology takes the form of specific practices some of which are embodied in machines and devices, while others represent standardised forms of behaviour. When used in the field of international affairs, the term technology therefore refers not only to the application of military or policing technologies, but also to formalised procedures for providing assistance and training, as well as standard forms of diplomatic activity such as resolutions, declarations, and conflict resolution strategies. Thus, unlike the rule systems of governments which can be thought of as formal structures like institutions, advanced liberal governance employs informal as well as formal steering mechanisms to make demands, pursue policies, and generate compliance (Rosenau, 2005: 31). This is as true for the way in which liberal democracies operate domestically as it is for their external affairs. If, in order to achieve their foreign policy ends, liberal regimes rely on various technical means, then these means readily lend themselves to different objectives.

A fundamental tenet of the governmentality literature is that the foregoing technologies of government have a certain 'political polyvalence' in the sense that they can be invested with different purposes depending on the political programmes they come to be associated with (Dean, 1999: 191). The techniques and mechanisms employed by advanced liberal regimes arise out of the necessity to address specific challenges and situations. In developing solutions to particular problems, political authorities rely as much on technological innovation as on borrowing from other institutional and sectoral

contexts. Technologies are thus characterised by a high degree of transferability across domains in that they can be adapted and, if necessary, rapidly augmented so as to serve purposes other than the ones they were initially designed for (Walters, 2004: 163). Much like structural realists who pay close attention to the fungibility of relative gains, scholars of modern liberal governance keep an eye on the 'polymorphous connections' existing among governmental practices that allow them to be used in the pursuit of different policy ends. While theorists of advanced liberalism acknowledge that "just because a technology has a potential use does not [necessarily mean] that this is the use to which it will be put" (Rose, 1999: 224), the fact that it can easily be converted from serving one set of purposes to another requires us to be mindful of the security implications that technologies of government tend to have.

Because post-structuralists focus on the mechanics of contemporary liberal rule, they are acutely aware of the potential discrepancy between the stated objectives of a particular technology of government and how that technology actually operates in practice. Technical programmes and initiatives, it is argued, possess their own internal logic or rationality that cannot and should not be reduced to the explicit intentions and motivations of the political authorities who utilise them (Dean, 1999: 22). Rather than viewing these programmes as the straightforward realisation of the aims and objectives sought by liberal governments as revealed in their official statements, policy documents and speeches, we should analyse technical programmes in their own terms, as it were, by paying close attention to those aspects of their activity that are implicit in their operations (Rose, 1999: 56). Theorists of contemporary liberal governance advocate a 'bottom-up', as opposed to a 'top-down', analysis of political power in which tactics have analytic precedence over strategy. Rather than carrying out a central plan or an order issued 'from above', technologies of government follow their own rationality that, according to post-structuralists, "can only be known through the realm of their effects" (Dean, 1999: 211).

It is a central premise of the governmentality literature that technologies of rule invariably have implications and consequences which should not be conceived of as deliberate acts of policy but which nevertheless

constitute an integral part of modern liberal governance. The effects of these technologies become apparent when one engages empirically with the techniques, mechanisms and devices on which liberal regimes of power depend. By conducting their analysis at the level of tactics, scholars of advanced liberalism are able to draw attention to certain 'inconvenient facts' (Dean, 1999: 71) about the nature of modern liberal rule that concern the discrepancy between how governmental practices actually work and the way they are represented, or represent themselves, in official discourse. Having said that, the aim of post-structuralist analysis is not to discover hidden motives or intentions on the part of those who wield power, let alone to reveal underlying class relations and interests in the manner of marxist interpretations of social reality (Rose, 1999: 56). The objective rather is to arrive at an understanding of the complex ways in which power and rule are exercised today by 'advanced liberal democracies' that avoids reducing their external activities and practices to any single factor or a cause.

Eschewing the quest for a fundamental explanation or truth is one of the hallmarks of post-structuralist research. Unlike neo-realists who postulate a deep underlying structural unity that sets the perimeters within which interstate relations take place and exercises continuous influence on them, theorists of advanced liberal governance argue that modern technologies of rule should not be seen as expressions or instances of a grand design or strategy, but should rather be viewed as heterogeneous elements in a causal nexus that bears upon "a multiple and wide range of problems and issues" (Dean, 1999: 29). To analyse international politics therefore is not to seek for a hidden unity behind the complex phenomena that characterise interstate relations, but to study how these phenomena interact and produce diverse and ambiguous effects which subsequently account for the messy realities of international political life as we know it. By renouncing the search for an underlying essence or truth, post-structuralists shift their focus of enquiry from causes to linkages, declaring that "what is interesting is always interconnections, not the primacy of this over that, which never has any meaning" (Foucault, 1984: 254). In doing so, they claim not to simplify but to generate complexity which they celebrate as the true standard of scholarly research in the social sciences (Rose, 1999: 277).

To sum up, the governmentality literature analyses the characteristic ways in which (coalitions of) 'advanced liberal democracies' conduct their external affairs. Liberal governments exercise power and influence over foreign elites and/or populations by recognising their desires and interests and adjusting their policies to them. Because they try not to challenge the interests and aspirations of others but rather to mobilise and enlist them in the service of their own ends, liberal polities are said to 'govern through freedom' (although in practice the bounds of this freedom may be very narrow indeed) (Dean, 1999: 15). Involving the governed in the exercise of their own government depends upon the creation of networks that link multiple agencies in a variety of locations of which state institutions are only one and not necessarily the most significant.

The ability to bind others into cooperative networks represents a type of non-violent power or force that works its effects indirectly and without infringing on the autonomy of the governed. Theorists of advanced liberalism endeavour to study and document the myriad of, often technical and material, ways in which liberal power is instituted and made real through various practices of government. Post-structuralist analyses, therefore, are driven by 'how' questions that explore the workings of power at the most practical level where it is devoid of any political intent or rationality. This is not to say, however, that governmental practices do not have various consequences and effects, whether intended or not, that are of a more political or strategic nature. Indeed the governmentality literature pays close attention to the strategic implications of contemporary regimes of rule, claiming that they constitute a vital part of the complex matrix of ends and means that characterises modern liberal governance (Dean, 1999: 2).

What the Two Approaches Share in Common

The theoretical approaches outlined above provide a conceptual frame of reference for analysing EU activity in the eastern neighbourhood. Given that the two approaches will be used in parallel in later chapters, it is perhaps worthwhile to briefly explain what the two approaches share in common that justifies their being applied jointly to the subject of enquiry in this thesis. At

first glance structural realism and governmentality perspectives seem to be at variance with each other on account of their differing interpretations of political agency, causality, power, and other fundamental concepts that shape our perception of social and political reality. While these differences remain significant, it is argued here that in three important respects the literatures on realism and governmentality can be considered intellectually compatible on account of their shared understanding of some issues that influence their outlook on international political life in general, namely: the way they both conceptualise the relationship between politics and war, their attitude to political and ideological values, and, following on from that, the amount of importance they attach to 'democracy' as a factor in international politics.

The relationship between politics and war is one instance where the two traditions meet in general agreement. Both realist and post-structuralist approaches perceive a clear association between the logic of politics and that of war. In order to highlight the competitive nature of political relations, the young Michel Foucault paraphrased an old *realpolitik* saying when he declared that politics is the continuation of war by other means, in the sense that similar relations of force and conflict prevail in politics as they do in war (Foucault quoted in Dean, 1999: 25). The original aphorism, of course, is credited to the 19th century Austrian strategist Otto von Clausewitz - himself closely associated with the realist tradition - who once memorably said that war is the continuation of politics by other means. Clearly, a kind of reciprocal relationship exists between the political and military realms to which both set of theories subscribe in similar, though not identical, ways.

The second instance where the two approaches are broadly in agreement concerns the question of values. Values, beliefs and moral principles have virtually no place in neo-realist accounts of international relations. In the neo-realist paradigm, relations among states are essentially amoral. Survival is the ultimate value toward which all foreign activity is geared, and surviving is accomplished by means of an uncompromising pursuit of power measured in terms of, mainly military, capabilities, which leaves little place for ethics or ethical behaviour. In a similar way, theorists of advanced liberal rule explicitly privilege the material aspects of governing by warning their readers not to regard governmental practices as expressions of

moral principles, but to question how values such as transparency, accountability, fair play, etc. are attached to various technologies of government in an attempt to clothe them with legitimacy (Dean, 1999: 34). In fact, the critical purchase of the governmentality literature consists in exposing the gap between how technologies of rule represent themselves and how they actually operate in practice. Thus both neo-realists and post-structuralists advance a materialist conception of international political life shot through with a healthy dose of scepticism, if not cynicism.

Finally, there is a meeting of minds on the question of democracy as well. Kenneth Waltz's views on the democratic peace theory are as well known as they are clear and unambiguous. By arguing that states, or coalitions of states, that are locked in existential conflict will certainly not perceive each other as democracies, Waltz effectively exposes the whole argument that democracies do not fight each other - and that, by implication, dictatorships are a threat to world peace - as a propaganda ploy in the service of militant elites occupying the chancelleries of powerful states (Waltz, 2000). Indeed, the very notion that the internal constitution of states determines or even influences their international behaviour is alien to structural realism. Likewise, in thinking about liberal democracy in terms of technologies of rule as opposed to a system of values, post-structuralists take a disenchanted view of political ideologies and movements that claim to speak and act in the name of democracy and freedom. Because freedom is so often instrumentalised in pursuit of other, less noble ends than itself, theorists of contemporary liberalism hope to provide through their writings "an antidote to developmental and progressivist narratives of change" (Walters and Haahr, 2005: 70). In examining EU activity in the eastern neighbourhood, this thesis is inspired by a similar sentiment.

Methodology

The thesis uses qualitative research methodology to study how the European Union is able to advance its interests in Ukraine and assess the impact of its activity on the regional order in the eastern neighbourhood. It combines documentary analysis and elite interview techniques to capture the wider

pattern of action engaged in by the EU in several areas of Ukrainian public life. The thesis takes an investigative approach to the transformational activities conducted under the European Neighbourhood Policy in Ukraine and offers 'rich empirics' that illustrate the modalities of EU engagement with its eastern neighbour. In telling the story of how the EU has tried to influence developments on the Ukrainian domestic scene, this thesis is guided by a certain investigative empiricism that seeks to take it beyond what is already known about the external relations of the emerging European polity.

The main evidence of European involvement in Ukraine is presented in three empirical chapters that deal with aspects of the country's internal development which the EU has sought to influence. Each empirical chapter begins with a discussion of how a particular feature of the Ukrainian polity has evolved since independence and charts the trajectory of its further evolution brought about as a result of EU activity. In doing so, it draws on reports from the Ukrainian, and in a few cases Western, media to relate any local developments that mark a significant change in the country's political, economic and administrative landscape. It also uses evidence from the academic literature to not only establish the facts of what has been happening on the ground but also to situate the discussion in the context of the academic field within which the particular issue dealt with in the chapter lies. The secondary sources found in the bibliography, therefore, range from those dealing specifically with Ukraine to those that provide a wider perspective on the policy area covered in each empirical chapter, whether that be immigration and borders, energy or democratisation.

The bulk of each evidential chapter contains an analysis of the European Union's *modus operandi* in Ukraine. Individual programmes and initiatives launched by the EU in the country since 2000 are grouped around several analytic concepts or themes borrowed from the scholarly literature, and are examined with a view to their strategic implications. The evidence presented in these sections derives from official documents and policy-cum-strategy papers that are publicly available on the internet sites of the various European institutions and member state governments. These are used alongside speeches and other official pronouncements by prominent political figures from the EU, which too are available online. The thesis also uses

material from technical and financial reports produced by European and Ukrainian government agencies that provide the specifics of various projects undertaken directly by, or with the support of, the European Union in Ukraine. Examples include statement of accounts concerning different member state programmes in Ukraine and terms of reference for tenders funded by the Commission in the country. Lastly, the dissertation relies on information found in annual reports, brochures and newsletters issued by private and quasi-public entities, such as commercial firms and non-governmental organisations contracted by European public bodies to provide the technical and organisational infrastructure necessary to bring about change on the ground. Their accounts tell the story of the multiplicity of ways in which the European Union acts beyond its current geographical and institutional boundaries.

The third source of information derives from over sixty confidential elite interviews conducted by the author during several research trips to Brussels and Kiev in the period between the summer of 2005 and the spring of 2007. The interviews took place at nearly every stage of my doctoral research. Interview respondents were in the majority of cases middle ranking officials from the European institutions, member state embassies and the Ukrainian civil and diplomatic service. They also included technical experts and consultants from European and international agencies active in Ukraine, as well as researchers from Brussels- and Kiev-based think tanks who specialised in the policy areas covered in later chapters. Further information about the expertise sought in the writing of this thesis is provided at the beginning of each empirical chapter, while a complete list with the details of all interview respondents is available in the Appendix.

Interview partners were selected on the basis of their knowledge and expertise in the programmes and policy areas that fall within the scope of this research. The method of selection consisted in going through the organisational charts of target institutions in order to identify suitable individuals for interview. The first contacts were made on the initiative of my academic supervisor, while subsequent interviews resulted in more references to potential sources of expertise. Interviewees were usually approached by email to establish whether they were available to meet in person. The vast majority of interviews were face-to-face. However, in a few

cases the only possibility to speak to persons identified for interview was over the telephone. There was only one instance where a respondent chose to provide written answers to questions they received by email rather than doing so on the phone. Interviews that took place other than in person are indicated in the table at the back.

In terms of how they were conducted, nearly all the interviews were semi-structured and flexible, guided by open-ended questions that allowed reasonable scope for discussion. Their duration varied between half an hour and an hour and a half, depending on the respondent's availability, the usefulness of the information imparted, and the personal rapport established with the interviewee during the course of the meeting. The language in which they were done was English and, occasionally, French when interviewing non-Ukrainian respondents, and Russian or, sometimes, English when interviewing Ukrainian ones. All except three were individual one-to-one interviews, the three exceptions being when two respondents were interviewed at the same time or when another researcher joined in the discussion. All but one were unique interviews in the sense that respondents were interviewed only once. In all cases strict confidentiality has been maintained by keeping individual names undisclosed. Likewise, interview sessions were not taped; instead, copious notes were taken during and immediately after meetings and provided the written material used in the thesis.

The evidence collected using this method of enquiry served to put flesh on the bone of data obtained through documentary analysis. The interview sessions themselves were used to clarify any questions that had arisen from the documents and policy papers available in the public domain. In some cases interviewees provided additional documentary material that was not easily accessible. Interview respondents were also asked to evaluate events from their own personal and professional perspective. They offered expert commentary on specialist topics relevant to the thesis and provided memorable quotes that are cited in the text. All interview material used in the writing of this thesis is referenced by citing the date when the interview took place, while the names of the individuals responsible for the information quoted in the chapters have been withheld for reasons of confidentiality.

The combination of documentary analysis and elite interviews is suitable for the empirical investigation into the external activities of the European Union undertaken in this thesis. Its advantage lies in the fact that it enables the researcher to establish the facts of what is happening on the ground in sufficient detail so as to be able to go beyond the explicit. When used together with media reports and evidence derived from secondary sources, these research techniques allow for a fuller picture of the transformational activities conducted by the EU in the eastern neighbourhood than the one found in official statements and declarations emanating from the central institutions in Brussels.

Before proceeding to the matter at hand, this chapter will conclude with some very brief notes on style, particularly where the spelling of names and places is concerned. As a general rule, when referring to regions and cities in Ukraine, the Ukrainian and not the more established Russian transliteration will be used. For example, instead of Lvov the text will refer to Lviv, and instead of Kharkov it will read Kharkiv. The only exception to this is Kiev, where the Russian transliteration will be used, not only because of its long-standing presence in the English language but also because this happens to be the official usage in Brussels (though not in the EC delegation in Ukraine). The spelling of Christian names will depend on the sources where they were encountered. Because Ukraine is *de facto* a bilingual country, many Ukrainians use both the Russian and the Ukrainian version of their first names. Thus Vladimir and Volodymyr, or Sergey and Serhiy, can be used interchangeably. The Russian language version of the Ukrainian media tends to give the Russian spelling of names, whereas Western sources seem to prefer the Ukrainian one. In general, this thesis will try to keep to the Ukrainian transliteration.

CHAPTER II

THE ENP AND UKRAINE: ACTORS, PROCESSES, ISSUES, INSTRUMENTS AND CONTEXTS

The 2004 enlargement of the European Union (EU) brought new urgency to relations with the wider Europe. As the most important of the Union's post-enlargement neighbours, Ukraine has received considerable attention in the chancelleries of the West, not least because of the country's location in the common external security space of both the European Union and the Russian Federation. The fact that Ukraine now figures strongly in the security designs of both Russia and the West indicates that, with enlargement, the question of Russia's significance in EU policy towards Ukraine has taken on a new level of importance evidenced in official and expert debates.

The significance of the Russian Federation in the European Neighbourhood Policy (ENP) towards Ukraine is widely acknowledged in the literature. Pointing to Russia's robust cultural and economic presence in the region and its vital role in providing or otherwise of stability and security in the lands to the east, a number of EU foreign policy analysts have commented on the importance of addressing the Russian question when formulating policy on Ukraine. Michele Comelli, for example, has argued that "Russia is an important regional player, to be taken into consideration when dealing with eastern neighbours" (Comelli, 2004: 110). Similarly, Karen Smith writes that the capacity of the ENP "to make a significant impact on Ukraine could be dwarfed by the involvement of other actors, notably Russia" (Smith, 2005: 16).

The nature of the interaction, whether cooperative or conflictual, between Brussels and Moscow in Ukraine is seen by several commentators as a key determinant of the strategic environment within which ENP unfolds. Dov Lynch, for example, writes that "in the new borderland between the EU and Russia, cooperation is vital for stability and security" (Lynch, 2004a: 116). Roberto Aliboni too states that "stronger EU-Russia cooperation is a fundamental factor for success of the ENP, particularly on the eastern side of the neighbourhood" (Aliboni, 2005: 14). Moscow's heavy presence in Ukraine, according to Antonio Missiroli, may even "shape a sort of Eastern dimension of the EU, based on a trilateral relation in which the country represents an

interface between Moscow and the Union as an explicit element of its bilateral partnership [with the EU]" (Missiroli, 2004: 21). Conversely, Taras Kuzio has argued that the EU and Russia have incompatible objectives in Ukraine, and has advocated on that basis the decoupling of Kiev and Moscow in EU strategic thinking (Kuzio, 2003: 13 & 30). For Wolczuk et al the process of decoupling is already under way (Wolczuk, 2005: 8-9).

All the above, however, seem to advance an understanding of the European Union as a distinct foreign policy actor locked either into a cooperative or competitive relationship with the Russian Federation over Ukraine. The image conjured here is that of a security triangle, with Brussels, Kiev and Moscow at its three corners. On the basis of this conceptualisation, experts have advocated the formulation in Brussels of a single strategy for the management of relations with Kiev that endorses or, conversely, ignores, Russian interests in Ukraine. The positing of Brussels and Moscow as strategic partners or strategic competitors in the eastern neighbourhood, however, may be misleading because it does not take account of "the multiple realities that constitute the European Union" (Knud Jørgensen quoted in White, 2004: 46). As a collection of now twenty-seven nation-states governed by several interlocking institutions and a multiplicity of often contradictory policy processes, the European Union is a 'non-unitary' or 'disaggregated' entity in world politics (White, 2004: 47). Therefore, analysing its interaction with Moscow in Ukraine in a trilateral framework may not do justice to the complexity of the decision-making structure of the EU. Instead, what is needed is an approach that identifies the different elements that make up the ENP and demonstrates how these coalesce around the Russian question to produce certain results in terms of policy outputs.

This chapter seeks to investigate whether considerations of the Russian position play an important role in EU foreign policy decision-making on Ukraine. It analyses the ENP as a system of interrelated elements, i.e. contexts, actors, issues, instruments and policy processes, which interact to produce complex outputs. It then inserts an additional element, the so-called 'Russian factor' (Lynch, 2004b: 4), to determine how various attitudes and responses to Russian sensitivities in the region fit into the EU foreign policy system and to what effect. The preliminary conclusion is that the European

Neighbourhood Policy is made in a variety of ways that increasingly involve a mixture of actors that extend beyond the EU family of players and that, in the case of Ukraine, may include the Russian Federation.

ENP as a System in Action

Viewed as a system, the European Neighbourhood Policy is constituted by a set of actors, processes, issues, instruments and contexts that interact to produce policy outputs. This section provides an indicative list of the various elements that make up the system.

Actors

The ENP is made by a range of state and non-state actors exercising influence at different stages of the policy-making process and constituting, what Brian White terms, "a complex mixed actor system" (White, 2004: 49). The main players and their preferences on the Ukraine issue are:

Individual member states: Although all member states are generally in favour of closer cooperation with Ukraine, the nature of this cooperation is a divisive issue. Wolczuk et al identify two broad stances within the EU: the mainly Northern and Eastern members of the Union favouring a pro-active EU policy of engagement with Ukraine, and the Southern and broadly Western EU member states which are against engagement (Wolczuk et al, 2005: 5). There are, of course, exceptions and nuances. At the two ends of the spectrum, however, lie Poland, which has acted as a key lobbyist for Ukraine (Kuzio, 2003: 6), and France, which has been most reluctant to engage with the country (Wolczuk et al, 2005: 6).

The European Commission: The Commission has been reserved in its stance towards Ukraine and has consistently maintained that Kiev's obligations under the Partnership and Cooperation Agreement (PCA) that entered in force in 1998 must be fulfilled before any new agreements can be concluded (Pidliuska, 2002: 192; Liddle, 2002: 200). EU external relations commissioner Benita Ferrero-Waldner has repeatedly stated that there will be no further enlargements in the medium term, and that for the time being ENP and the Action Plan are the appropriate tools for EU-Ukraine relations.

The European Parliament: The European Parliament has been one of the most vocal supporters of eastern enlargement, and has often spoken out against the creation of new dividing lines in Europe (Beazley, 2002: 209). The Parliament came out in support of Ukraine's European aspirations by adopting on 13 January 2005 a resolution alluding to an offer of a membership perspective for Ukraine. However, as Wolczuk et al have pointed out, the resolution marked a peak in pro-Ukrainian sentiments as support among MEPs has subsequently declined (Wolczuk et al, 2005: 14-15).

Mr CFSP: Javier Solana, appointed in 1999 as High Representative for the EU's Common Foreign and Security Policy (CFSP), has been tasked to maintain coherence and coordination among different national foreign policies. His priorities, therefore, are to advance foreign policy initiatives which bind the Union together and do not alienate any of its members. Solana's participation in the round table negotiations during the election standoff in Kiev addressed in a later chapter will go down as 'a high point' for CFSP (Wolczuk et al, 2005: 5).

The EU presidency: Under the current 'constitutional' arrangement each member state acts as president of the Council on a rotating six-monthly basis. That country is responsible for organising all the business of the Council of Ministers and the European Council by chairing meetings, brokering deals, launching strategic policy initiatives relating to CFSP and Justice and Home Affairs (JHA) matters, and acting together with the High Representative as the spokesperson of the EU (White, 2001: 13). Its attitude on the Ukraine issue has depended on the member state holding the presidency.

The EU-as-actor: In certain cases it would be useful to think of the European Union as an actor in its own right whose interests are different than the sum total of its member states' and institutions' interests (Hyde-Price, 2004b: 102). Although the EU-as-actor model is antithetical to European FPA, it could be argued that, in its relations with the neighbourhood and the wider world, the Union is to some extent driven by the desire to act as a coherent entity in international politics. This desire indicates that the EU should be seen, in certain instances at least, as more than the totality of its constitutive parts.

European public opinion: The European public is a dormant force in EU politics that makes itself felt when called upon to ratify a new treaty (or not). Although opinion polls conducted by various pollsters in the wake of the

Orange revolution showed strong identification with Ukraine as a European country (*Gazeta Wyborcza*, 23 Feb 2005), "there is little appetite in EU public opinion for an ambitious ever-rolling enlargement" (Dannreuther, 2004: 210). Given that after the ratification crises in 2005 and 2008 EU decision-makers are expected to be more attentive to the preferences of their electorate, enlargement fatigue among the European public could have deleterious effects on Ukraine's membership prospects.

Policy centres: Like every other major international actor, the EU has spawned a plethora of research institutes and foreign policy centres that monitor and analyse its activities. Staffed by experts who form transnational policy networks or 'epistemic communities', these 'centres of comprehension' generate ideas, and engage in interest formation and representation. There is a 'revolving door' through which personnel from these centres often trade places with personnel from EU or national bureaucracies. Many of these centres have a certain propensity to strategise in terms of big pictures. Nearly all have an interest in an internationally active Union.

Micro-actors: These include agencies in charge of policy implementation - law enforcement bodies (Europol), border guards, various liaison officers, as well as institutions like the European Bank for Reconstruction and Development and the European Investment Bank. Although they have little influence over policy-making, their input is important at the implementation stage.

Processes

ENP decision-making is characterised by several related and often contradictory processes described below.

What lies at the centre of the neighbourhood initiative is a deal or a bargain. A bargain is a process of give and take, often via negotiation. In exchange for progress on a range of political, economic and institutional reforms, including aligning domestic legislation with the *acquis communautaire*, Brussels offers Kiev the prospect of a stake in the Internal Market along with many of the practical benefits of membership (Lewis, 2002: 266). This however is not a take-it-or-leave-it offer as many of the terms of the agreement are negotiable and vary from neighbour to neighbour. ENP,

therefore, is not a one-size-fits-all policy, but rests instead upon a process of differentiation whereby "priorities for action are differentiated according to each neighbour" (Smith, 2005: 7). This partly counters complaints by Ukrainian leaders and their sympathisers in the EU that the country is effectively being put in the same basket as the Mediterranean partners.

ENP also implies a process of Europeanisation defined by Michael Emerson as the profound transformation of Ukrainian politics in line with European values and standards through (a) legal and institutional obligations, (b) objective changes in economic structures and interests, and (c) subjective changes in beliefs, expectations and identity (Emerson, 2005: 2). Europeanisation in these three dimensions is the fundamental basis for any meaningful integration in the European Union. The flipside and corollary of integration through Europeanisation, however, is the dismantling and reorganisation of social and economic relations that constitute the legacy of previous or alternative systems of order, e.g. the Soviet legacy in Ukraine and current regional integration projects in the former USSR. Because it entails the disruption of settled regional economic and political relations, Europeanisation implies and manages a process of disintegration (Walters, 2004: 688-9).

ENP involves engaging Ukraine in a structured dialogue with the EU institutions advanced through a series of small steps that provide easy and regular satisfactions for both sides. The emphasis is on "the technical, depoliticised nature of institutionalised cooperation" (Christiansen et al, 2000: 395). Romano Prodi once stated that "the genius [of European integration] lies in translating extremely high political ambitions into a series of more specific, almost technical decisions. This indirect approach makes further action possible" (quoted in Kagan, 2003: 11). The aim, therefore, is to tackle uncontroversial policy areas and make progress where progress can be made. This process, however, has implications for the character of Ukrainian integration into the EU. Because it involves deferral and postponement of difficult decisions, integration can only take place gradually. The watchword here is incrementalism.

Like all organisations, the EU has certain set ways of doing things. The term for this in the literature is 'organisational routines' or 'standard operating

procedures'. Chris Brown writes that "organisations do not solve problems by starting from scratch. Rather they delve into their institutional memories and try to remember how they dealt with similar problems before" (Brown, 2001: 78-9). One of these organisational routines is what Gwendolyn Sasse calls the Christmas tree method employed in the drafting of the Common Strategy on Ukraine (now superseded by the EU-Ukraine Action Plan). She describes how "a minimum consensus on the need for a common foreign policy position was broadened out by individual member states adding more and more 'decoration' according to their own national interests, thereby blurring the priorities" (Sasse, 2002: 215). As an organisation with a strong intergovernmental dimension, the European Union often fails to produce policies based on a clear set of priorities.

Finally, ENP implies a process of pulling together the different strands of national and collective European policies towards Ukraine. William Wallace argues that any EU external policy (ENP included) promotes "the negotiation of shared and separate foreign policy interests and identities and the slow convergence towards a common view" (Wallace, 2003: 61). The aim is to create a ratchet or creep effect on foreign policy coordination.

Issues

The ENP agenda is constituted by a set of issues - some specific to Ukraine, others not - to which the policy has been designed to respond. The issues described below pertain to the internal cohesiveness of the European Union and its standing in world affairs.

One of the main issues the ENP has had to address is how to facilitate integration without further accession. The EU's mission has never been to unite the entire European continent and, anyway, the time for that now is inopportune. Dov Lynch argues that "in the current climate, there can be no further talk of enlargement. The EU's ability to launch ambitious programmes with the neighbours is limited by its preoccupation with pressing internal questions" highlighted by the double rejection of the EU Constitution by France and the Netherlands and more recently by Ireland (Lynch, 2004b: 3). In a similar vein, James Sherr writes that:

Enlargement has limits, and these limits are defined by the character of the communities which others seek to join. The members of these communities have interests apart from enlargement, not least, the integrity of the communities themselves – integrity which can easily be lost if standards are compromised and membership diluted. Admitting new members has costs and risks for those who admit them (Sherr, 2003: 134).

That is why the EU has sought to devise a strategy for engagement with the neighbours that facilitates interdependence rather than enlargement. The issue of further accession is also closely tied with the ongoing debate on the finalité géographique of the Union, a debate that slowly appears to be verging on a consensus.

A related issue is the importance for the EU to move away from the inside/outside dilemma in its interaction with nearby states. To act beyond the membership/exclusion dichotomy (Lynch, 2004b: 2), the EU has had to devise “novel policy-regimes designed for spaces that are neither properly inside nor properly outside the polity” (Christiansen et al., 2000: 392). Christiansen et al have suggested the imperial metaphor of the ‘near abroad’ as a way to describe the politics of EU relations with these intermediate spaces (Christiansen et al., 2000: 391). There, the EU engages in policy-export with the aim to change the environment in the neighbourhood in order to attain equilibrium between the inside and the outside (Walters, 2004: 688). This bears out Karen Smith’s assertion that EU foreign policy activity pursues ‘milieu goals’ rather than ‘possession goals’. The latter further national interests, whereas the former aim to shape the environment in which the EU operates (Smith, 2003: 107).

Addressing the negative consequences on those left outside after enlargement, i.e. the Eastern neighbours, is another issue the ENP has had to consider. In one sense, the policy represents ‘rhetorical, low cost diplomacy’ to try to placate or fob off the excluded (Emerson, 2005: 1). But at the same time, it provides for the possibility to overcome the new dividing lines in Europe created by enlargement through institutionalised interdependence.

The creation of the ENP has also been motivated by the need to promote EU coherence. Like other EU initiatives, the ENP has aimed to create a sense of shared purpose among member states. In this respect, it represents something of a bonding exercise which may not be directly related

to Ukraine or the neighbours. Thus the ENP can be described as an external policy for internal consumption, which bears out a classic point in traditional FPA, namely, that foreign policy decisions are not necessarily taken on foreign policy grounds (Brown, 2001: 80).

ENP also aims to promote the Union as an international actor. This item on the agenda concerns the Union's image abroad. There are continuing pressures from within the EU and without to present a unified face to the outside world and to move towards a single foreign policy (White, 2004: 60). By responding with a comprehensive policy on the neighbourhood, the EU appears to be making a step forward on the road to international actor-ness. The need to act as a Union rather than as a group of sovereign nation-states has thus provided a strong incentive for a coordinated strategy towards the neighbours (Trenin, 2003: 9).

Instruments

The existence of capabilities and resources on the EU side can easily be converted into usable policy instruments for inducing Ukraine to cooperate and reform. The most effective of these instruments is what Dov Lynch has termed 'soft' or 'low-level conditionality' (Lynch, 2004b: 6). In contrast to the 'hard' conditionality applied to the accession countries of Central and Eastern Europe, soft conditionality links reform in Ukraine to some concrete financial rewards and the possibility of participation in selected EU structures. Because the EU represents a quarter of the world economy (Becher, 2004: 349), the offer of a free trade agreement with the world's largest economic bloc is a serious incentive for compliance. This 'silver carrot' (in Antonio Missiroli's terminology) is meant to substitute for the absence of the golden carrot of prospective membership. Several commentators, however, have argued that the substitution may be inadequate (Lynch, 2004; Wolczuk et al, 2005).

Diplomatic statements in the form of common positions, communiqués and joint declarations (particularly with the United States) have also been used to influence Ukraine. The example of the statement made by Bernard Bot at the height of the election crisis in November 2004, in which the EU threatened the Ukrainian leadership with 'consequences' if evidence of vote

rigging was not looked into, demonstrates the effectiveness of this tool. Having said that, other joint statements on Ukraine, such as the ones issued by the EU in response to the Kuchmagate scandal in 2000, have gone unheeded in the past.

Another instrument in the armoury of the ENP is the concept of 'ambiguity' or 'evasiveness' often used to describe EU behaviour towards prospective candidates (Pavliuk, 2003: 2). Dov Lynch writes that the ENP contains "a notion of future" (Lynch, 2004b: 5), yet that future is uncertain. Maintaining constructive ambiguity about the finality of the neighbourhood project prevents the slackening of Ukraine's commitment to undertake reforms and the undermining of EU leverage to push these reforms through. Keeping Ukrainians on their toes is designed to ensure continuing commitment for reform, something that an immediate prospect for accession is expected to undermine.

Finally, at the implementation stage, benchmarking, monitoring, and deadlines are the instruments used to ensure that commitments undertaken by the neighbours are honoured. Implementation is the crucial final stage of the policy process when decisions are translated into behaviour and action. Problems with implementation arise out of ambiguous goals, imperfect procedures, and inadequate control mechanisms - and Karen Smith argues that the ENP is fraught with these - as well as when the agent charged to implement and monitor policy on behalf of the EU lacks the human and material resources to fulfil this role effectively. This is certainly the case with the European Commission which "often finds itself negotiating on a wide range of fronts in any given time, thereby increasing the strain on its limited resources and diffusing its attention" (Michael Smith quoted in White, 2001: 55). Where the EU Presidency is charged with implementation, as is the case with most of the Ukraine Action Plan, the problem stems from the fact that the presidency rotates twice a year. This creates a stop-go six-monthly cycle during which plans for implementation are drawn, executed and then promptly replicated by the next country holding the presidency (Sasse, 2002: 216).

Contexts

Defined as the 'setting' or 'environment' of policy-making, policy contexts constitute "important inputs into the foreign policy system" that "define the

parameters within which the system can operate" (White, 2004: 57). The two policy contexts described below pertain to, what can broadly be termed, the strategic cultural and intellectual environment in which ENP is made.

One important ENP policy context is West European states' preference for international regimes and multilateralism. There is a distinct "EU model for multilateral management of soft power" (Sedivy and Zaborowski, 2004: 202) that defines the character of EU engagement with the neighbourhood and, indeed, with the wider world. This model governs the organisation of means and ends, or what Kerry Longhurst calls 'security policy standpoints', defined as "interpretations of how core values are to be promoted through policy channels that set the preferences for policy choices" (Longhurst, 2004: 17). Robert Kagan argues that insofar as one can generalise about Europeans,

Europeans approach problems with nuance and sophistication. They try to influence others through subtlety and indirection. They are more tolerant of failure; more patient when solutions don't come quickly ... They try to use commercial and economic ties to bind nations together. They emphasise process over result, believing that ultimately process can become substance (Kagan, 2003: 5).

In EU policy towards Ukraine process is substance, and because Europeans believe that the means are the ends-in-the-making, means and ends become interchangeable in the ENP. Kagan goes on to argue that:

European strategic culture puts the emphasis on negotiation, seduction, political engagement, the use of inducements, the taking of small steps and tempering ambitions for success (Kagan, 2002: 10).

These policy standpoints are an important input in the decision-making process of the European Union. They are a vital part of how the EU does things in the domestic and international arenas.

Robert Cooper's distinction between pre- and post-modern/Westphalian states is another policy context that provides an important input into EU decision-making. Cooper writes that the post-modern world is characterised by (a) breakdown of distinction between domestic and foreign, (b) mutual interference, (c) rejection of force, (d) growing irrelevance of borders, and (e) security based on interdependence and mutual vulnerability (Cooper, 2000: 19). While these characteristics are valid within the boundaries of the EU, they do not apply outside them (Cooper, 2000: 39).

The task of the ENP, therefore, is to prepare neighbouring countries like Ukraine to gradually exit the modern and enter the post-modern world of states. This means that, on the one hand, the Union will treat Ukraine as it treats all modern states - with caution and mistrust, but on the other, it recognises Ukraine's potential to become a post-modern state and eventually join the club of 'enlightened' nations. Cooper's theory is an important part of the intellectual environment in which ENP arises.

The 2005 Ukraine Action Plan: A Case Study

An example of how the various elements constituting the ENP came together around the question of a membership perspective for Ukraine is provided by the Action Plan signed by Victor Yushchenko on 21 February 2005. The new leadership in Kiev, which came to power in the wake of the Orange Revolution, immediately made it clear that the very underlying philosophy of the ENP was antithetical to the new Ukraine's national idea which postulates that the country is part of, not a neighbour of, Europe. Because the Ukraine Action Plan governing the country's relations with Brussels within the ENP framework had been negotiated by the previous regime, Yushchenko was reluctant to put his signature under a document which he regarded as falling far short of the expectations of large sections of the Ukrainian public. However, the EU presented Kiev with a take-it-or-leave-it offer as there was no willingness in Brussels to renegotiate the agreement despite the dramatic events of the Orange Revolution and the changes in Ukrainian politics it had brought about. Yet, it was agreed that the Plan would be reviewed within a relatively short timeframe. Likewise, in a 10-point addendum to the document, Solana and Ferrero-Waldner specified additional measures to further strengthen and enrich the Action Plan (Wolczuk, 2005: 7).

This compromise solution brings to light how different processes, actors and contexts interacted to produce a complex outcome. On the one hand, the Commission maintained the principle of *integration, not accession* which is a majority view among member states. By refusing to consider entering into new contractual obligations before the old ones had been fulfilled, the Commission stood by its principle not to let policy run ahead of implementation. The process underpinning this reasoning is one of small

steps that bridle ambition, maintain constructive ambiguity, and advance relations incrementally. The decision not to renegotiate the Action Plan reflects the desire to avoid giant leaps forward that could destabilise the rapprochement between Brussels and Kiev. It also indicates a certain caution not to be held hostage by events. This is important in light of the fact that the post-Orange euphoria in Ukraine has been superseded by sombre economic calculation accompanied by substantial backtracking on many election promises by the Yushchenko/Tymoshenko government.

At the same time, recognising that the Action Plan may be a little out of step with developments in Ukraine, Brussels agreed to review it within a relatively short timeframe. The decision was adopted under pressure from some of the new member states, e.g. Poland and Lithuania, whose leaders took part in the round table talks held during the crisis and whose credibility in Kiev therefore was on the line. The resolution passed by the European Parliament on 13 January 2005, which called for greater engagement with Ukraine including future membership, and the general feeling of goodwill towards the country among the European public at large, were also reflected in the Commission's decision. Likewise, Solana and Ferrero-Waldner's 10-point letter appended to the Action Plan sought to placate Kiev and reflected the general positive mood in the Union towards Ukraine. The letter is an example of the Christmas tree approach described by Gwendolyn Sasse. The Plan, which laid out the general agreed-upon framework for action, was 'decorated' with an addendum reflecting the preferences of the pro-Ukraine lobby in the EU.

The case of the Ukraine Action Plan demonstrates how the question of a European perspective for Ukraine brought up by the Orange Revolution attracted a cluster of actors, who, operating within a distinctive context and with specific issues in mind, set in motion certain policy processes which generated a complex (in the sense of disjointed) policy output. The set of interrelationships formed around the amended policy document governing relations between the European Union and Ukraine can be said to constitute a subsystem within the European Neighbourhood Policy characterised by a particular type of governance. The rest of this chapter will outline the role of the Russian factor using the European FPA framework outlined above.

The Russia Factor

Considerations of Moscow's position on Ukrainian efforts to integrate with the EU have long been an integral part of Brussels' relations with Kiev. This section will attempt to chart the contours of the Russian question in EU policy on Ukraine by looking at the attitudes towards Moscow prevailing in the member states and how those have shaped the Union's Eastern policy.

Actors

Introducing the Russian variable in the EU-Ukraine equation highlights an important fault line among EU member states. On the one hand, there are some of the old members, pre-eminent among them France and to a lesser extent Germany, who are more willing to treat Ukraine as an element of their Russia policy than as a country in its own right (Lewis, 2002: 261). For them Ukraine represents, above all, a number of problems and soft security risks which makes them reluctant to lock the EU into any premature commitments (Sasse, 2002: 216). For many of the old members, as well as for the Brussels institutions, policy towards Russia has been a high priority to which all other priorities in the region have been subordinated. That is why so far the Union has refused to support Ukraine on an anti-Russian basis, and has insisted on maintaining a link between the two countries (Sherr: 2002, 168; Wilson, 1997: 176).

With enlargement, however, the Russia-first policy of the European Union is set to change. There are strong elements of tension and conflict in Russia's relations with some of the new member states which could be, and in fact have been, internalised in EU policy (Burakovski, 2002: 290). The prevailing view in Poland and the Baltic states is that Ukraine is important as a counterpoint to Russian power in the former Soviet space, and that decoupling it from Moscow would aid in the process of 'normalising' Russia so that it does not re-emerge as an 'imperial' power (Chudowski, 2002: 13). Warsaw's belief that Moscow will step into any vacuum in Ukraine that the West fails to fill has prompted Poland to see Ukraine as a potential 1000-mile wide firebreak between itself and Russia (Wolczuk, 2002: 171). Poland and

the Baltic states also fear that "a Europe dominated by France and Germany - and from which the United States is absent - could become a Europe which, as of old, will be tempted to make bargains with Russia over their heads and at their expense" (Sherr, 2003: 122). New-Old Europe divisions aside, there have also been tensions between northern and southern member states over the competing priorities of eastern and southern external relations (Wallace, 2003: 63)

Processes-Instruments

In terms of process, the Russia-first policy driven by the old member states has been reflected in the drafting of policy documents, such as the PCA and the Common Strategies on Russia and Ukraine, which were adopted within months of each other. The structure and wording of the Common Strategy on Ukraine also mirrored that on Russia (Sasse, 2002: 215) reflecting an EU organisational routine to use the same document for multiple purposes with minimal alteration. This prompted Taras Kuzio to write that "the EU drew up Common Strategies with Ukraine and Russia in order to demonstrate that its policies to both countries were equal" (Kuzio, 2003: 17).

At the same time, several commentators have highlighted developments that signal the progressive de-linking of Kiev and Moscow in EU policy. Inna Pidluiska, for example, writes that "relations between Ukraine and the EU reached a new stage after the Gothenburg summit, where Ukraine [unlike Russia] was mentioned for the first time in the section on the 'Future of Europe' instead of in the 'External Affairs' part of the presidency conclusions" (Pidluiska, 2002: 193). Similarly, Wolczuk et al argue that the 10-point letter appended to the 2005 Ukraine Action Plan represents 'a sea change' in EU policy towards the former USSR. The letter signifies a radical departure from the tendency in the EU to develop initiatives with Russia first which are then replicated for the other neighbours (Wolczuk et al, 2005: 8-9). Whether these harbingers of a radical rethink in EU Eastern policy are significant, however, remains to be seen.

Issues-Contexts

One prominent issue in the EU-Ukraine-Russia relationship has been the belief held by many in the EU that progress in realising Ukraine's European aspirations can strengthen those forces in Russia who are democratically minded. This linking of the democratisation process in the two countries partly explains the reluctance in the EU to support Ukraine on an anti-Russian basis. The prospect of democratic diffusion eastwards is far more likely to be "realised in conditions where Ukraine and the West enjoy mutually beneficial relations with Russia than in conditions where Russia feels estranged from either party" (Sherr, 2003: 124-5). That is why Brussels has tried to impress upon the Ukrainian authorities that, for Kiev, good relations with Moscow would ease rather than worsen the prospect of Ukrainian integration with the EU.

Cooper's theory provides another telling example of how policies develop within a specific intellectual context. He argues that there are elements of both the modern and the post-modern in Russia (for example, Putin's policy on Chechnya, and the Kremlin's willingness to commit itself to international regimes, such as the Conventional Forces and Europe Treaty and the Kyoto Agreement). Importantly, which element comes to dominate greatly depends on EU policy towards the country, which also affects Ukraine. Cooper writes that "it must be our central interest to draw Russia into the postmodern European system" by influencing its internal development through confidence and cooperation (Cooper, 35). Therefore, a strategy on Ukraine that does not alienate Russia would ensure the elimination of traces of balance-of-power thinking in the region, and will thus bring about lasting stability and security in the whole of Europe.

Conclusion

This chapter has sought to analyse Russia's political significance in EU policy on Ukraine using a non-state-centric, non-EU-as-Actor approach. It examined policy-making as a set of actors, processes, issues, instruments and contexts that coalesce around policy areas to produce complex outputs, and used the question of Ukraine's membership perspective as a case study. It then introduced an additional element, the so-called Russian factor, and showed

how it interacts with the different elements of the ENP decision-making process with respect to Ukraine. This was done with a view to addressing the broader question of whether the EU and Russia are strategic partners or strategic competitors in Ukraine. The preliminary conclusion is that this formulation is misleading because it does not reflect the reality in the European Union. Instead of seeing the relationship between Brussels, Kiev and Moscow as a security triangle, a more appropriate conceptualisation would be that of 'constellations' or 'galaxies' with clusters of actors, issues and instruments organised around different policy areas. The upshot of this variable geometry is that a single strategic vision on how to manage relations with Ukraine in the context of Russian interests there may prove evasive - after all the EU as an organisation is not at all fit for coherent strategic thought (Lieven, 2003: 297). EU interests are best advanced by means of a practical policy rather than a grand strategy or political diplomacy (Wallace, 2003: 46).

Having arrived at a more nuanced understanding of the neighbourhood initiative in which policy gives way to practice, this thesis will proceed to examine EU activity in Ukraine with respect to three policy areas situated along the intergovernmental-communitarian continuum. The next chapter will focus on EU activities in the area of Justice and Home Affairs as they occur on the Ukrainian-Russian border. It will be followed by an examination of Brussels' energy-related programmes directed at Ukraine's oil, gas and electricity sector. Lastly, this thesis will investigate EU democracy promotion activities in the eastern neighbourhood evidenced during the 2004 presidential elections in Ukraine. The three policy areas examined in subsequent chapters are central pillars of the ENP, and because of their importance for Kiev's relationship with Moscow, constitute crucial test cases for determining Russia's role in EU policy towards Ukraine.

CHAPTER III

BORDER SECURITY IN THE EASTERN NEIGHBOURHOOD: WHERE BIO-POLITICS AND GEOPOLITICS MEET

Introduction

The European Neighbourhood Policy is closely tied to the politics of border controls in the wider Europe. This link between the field of Justice and Home Affairs (JHA) and the external relations of the European Union (EU) is well established in the literature. It has been argued that European foreign policy is often used for asylum and immigration ends, in particular to limit asylum seeker and immigrant arrivals (van Selm, 2002; Lavenex, 2004). The possibility that the 'immigration diplomacy' practiced by the EU can be made to serve more traditional foreign policy ends, however, has received less attention. The present chapter seeks to address this question by taking a close look at the JHA-related activities conducted under the European Neighbourhood Policy in the Ukrainian-Russian borderland. It argues that EU initiatives directed towards the management of Ukraine's border with Russia are motivated by two related strategic objectives: 1) to confer greater visibility on the social and economic transactions occurring in the Ukrainian-Russian borderland, and 2) to alter the border regime, and by implication the border politics, between Ukraine and Russia in order to make it more compatible with EU interests in the eastern neighbourhood. In this context, the growing informationalisation of the border by means of databanks, liaison officers and the involvement of private/quasi-public companies is discussed, as is the conveying of EU norms, standards and best practices through legislative and technical approximation.

The chapter draws on policy documents and pronouncements by security experts in the media. It also uses material from fifteen confidential interviews conducted by the author in April and September-October 2006 in Brussels and Kiev. Interview respondents included officials from EU member state embassies in Kiev, the Ukrainian Mission to the EU, the EC Delegation to Ukraine, as well as International Organisation for Migration staff and former employees of the State Border Service of Ukraine.

The first section provides a brief overview of the Ukrainian-Russian borderland with an emphasis on its evolving character in the post-independence period. Subsequent sections focus on EU initiatives related to the management and control of Ukraine's border with Russia. The chapter concludes with a discussion of the strategic implications that follow from a tightened border regime on Ukraine's eastern border.

The Ukrainian-Russian Borderland

The Ukrainian-Russian land border runs approximately 2000 km and links ten administrative regions: Donetsk, Lugansk, Kharkiv, Sumy and Chernihiv on the Ukrainian side, and Rostov, Voronezh, Belgorod, Kursk and Bryansk on the Russian side. Geographically, the border does not coincide with any natural barriers, the only exception being the 120 km south-eastern section of the border which runs along the river Seversk Don. In many cases, the border cuts across towns and villages and severs multiple road and railway links (Kolossoy, 2004: 3). As a result, communications, industrial enterprises, and the system of healthcare and veterinary control in the border area have had to be separated, affecting the provision of public services and the level of economic activity in general (Kolossoy and O'Loughlin, 1998: 270). The complementary character of the transport, residential and industrial infrastructure either side of the border betrays the fact that this border is a fairly recent phenomenon, cutting through what not long ago was a single economic and administrative space.

Apart from infrastructure, the regions on both sides of the border share a long history of being an area of immigration and settlement for people from Russia and Ukraine. As a result of centuries of unimpeded contact between the two ethnic groups, the identity of most of the population in the Ukrainian-Russian borderland is fluid and 'fuzzy'. In the Kharkiv-Belgorod cross-border region, for example, much of the population is of mixed Russian-Ukrainian ethnic origin due to centuries of migration and mixed marriages. Approximately 40% of the population on both sides is connected by close family and friendship ties, with this number rising to 60% in the immediate border vicinity (Kolossoy and Vendina, 2002: 35). Consequently,

transboundary contacts are very intensive, with as many as 20 million crossings being recorded annually in the late 1990s.

Naturally, these socio-cultural realities are not static but have evolved since 1991. For example, in the period since independence there has been a reduction in the number of ethnic Russians living on the Ukrainian side of the border accompanied by a similar reduction in the number of Ukrainians living on the Russian side (Karpova, 2005). This is attributed not only to demographic decline and out-migration, but also to the traditional 'double identity' of many inhabitants in the region which makes it easier for them to assimilate into either the Ukrainian or Russian ethnos depending on the prevailing social and economic circumstances (Zhurzhenko, 2004a: 227). All in all, 1.5 million people have undergone a change in national identity, bringing the share of ethnic Russians inhabiting Ukraine's eastern border regions down from 41 per cent in 1989 to 36 per cent in 2001 (Karpova, 2005: 99). Likewise, there has been a marked reduction since 1991 in the number of transport ties linking Ukraine with Russia evidenced by a tenfold decrease in the number of train services between the cities of Kharkiv and Belgorod (Kolossova and Vendina, 2002: 30). The gradual decline in the size of ethnic 'minorities' on both sides of the border and the sharp fall in the number of cross-border transport links confirm Mungui-Pippidi's observation that "once a border is set, albeit conventionally, it starts working as a border ... it starts generating differences across it and homogeneity within" (Mungui-Pippidi, 2002: 55).

The Ukrainian-Russian border has set off other differentiating dynamics as well. The separate development of the two countries since 1991 has led to increasing disparities of wealth, with the Ukrainian side faring worse than the Russian side. As a result, Russian border regions and Russia as a whole have begun to attract growing numbers of migrant labourers from Ukraine, so much so that, according to ethnographic and statistical evidence, economic migration between the two countries represents one of the strongest migration patterns in the post-Soviet space, with Ukrainians now making up the largest group of immigrants in Russia (Hormel and Southworth, 2006: 608; Krasinets, 2005: 11). The biggest centre of the Ukrainian migrant community is Moscow where Ukrainians constitute about one third of the capital's total foreign

workforce (Bojcun, 2004: 2). While Ukrainian labour moved eastwards, Russian capital expanded into Ukraine. Russian businesses took advantage of the Ukrainian privatisation in the late 1990s and increased their share of ownership in Ukrainian companies, particularly in the industrialised south-east of the country (Crane et al, 2005). In addition, price differences have given impetus to a thriving cross-border shuttle trade, turning the border into a linchpin for economic activities, including 'grey' or 'black' economic activities centred around the exchange of 'bads' as well as 'goods' (Jessop, 2003: 188).

Against this backdrop of increasing differentiation and economic interdependence, several attempts at cross-border integration have been launched, mainly at the initiative of regional elites in eastern Ukraine. In the 1990s, 'free trade zones' and 'special regimes of investment' began to span the border, until they were abolished at the beginning of 2005 by President Yushchenko on the grounds that tax exemptions had been used to confer special privileges on regional elites for their loyalty to ex-president Kuchma. The free trade and investment regime of the Kuchma era was partially restored by the Yanukovich government which came to power in the summer of 2006 and which was composed mainly of politicians and industrialists from eastern Ukraine.

Other forms of interregional cooperation have also proliferated. In November 2003, the regional authorities in Kharkiv and Belgorod signed an agreement establishing the so-called Euroregion 'Slobozhanshchina' (Zhurzhenko, 2004b). A similar initiative led to the almost simultaneous establishment of Euroregion 'Dnipro' spanning the regions located at the intersection of the Ukrainian, Russian and Belarusian borders (Kolossoy, 2004: 9). After a promising start these initiatives stalled, partly because regional administrations did not have the powers to pursue economic integration independently of national capitals, and partly because of the diverging foreign policy orientations of Ukraine and Russia. The latter factor gained prominence with the election of Victor Yushchenko to the presidency in late 2004. Regional (re)integration, however, seemed to have picked up again after the return to power of Prime Minister Victor Yanukovich, with plans underway for the creation of Euroregion 'Donbas' and Euroregion 'Yaroslavná' in the east and north-east (*Korrespondent*, 2006a; 2006b).

The Ukrainian-Russian borderland thus presents a mixed picture. On the one hand, the legacy of the Soviet and imperial Russian periods continues to define the socio-economic landscape of the border area in terms of ethnicity and infrastructure. At the same time various political and economic dynamics have been set off that have gradually begun to differentiate the two sides of the border. While there have been several attempts to bring the cross-border area within a common administrative framework, these have so far produced limited results. The status of the Ukrainian-Russian border has thus been described as ambivalent and symptomatic of the complex relations between the two states (Zhurzhenko, 2004a: 213). This ambivalence has increasingly been exploited by external actors in pursuit of their strategic objectives.

Border Regime/Politics

One actor that has shown growing interest in the management of Ukraine's eastern border is the newly enlarged European Union. Ukraine is an interesting and important country for the EU. The Union's interest in Ukraine is to do with the latter's size and location which are used to calculate its geo-strategic value. The 1999 Common Strategy on Ukraine states that "its location along the North-South and East-West axes gives Ukraine a unique position in Europe and makes it a determinant regional actor". At the same time, "Ukraine's position as an important transit country providing a conduit for the cross-border flow of a wide range of non-legal activities" has also been noted by the EU (European Council, 1999). Clearly, Ukraine matters to the EU on two counts: it plays a pivotal role in the regional order and is at the same time is a concern in terms of soft security threats such as illegal immigration.

On the basis of this assessment, the EU has in recent years launched and supported a number of initiatives aimed at the transformation of Ukraine's eastern border into a barrier against, on the one hand, illegal immigration, and on the other, against integrationist dynamics that threaten to undermine the regional balance in Europe. The next section will examine in turn the different areas where the EU has sought to influence the development of the border regime at Ukraine's eastern border.

Border Demarcation

The issue of border demarcation has preoccupied the Ukrainian authorities and the EU in recent years. Ukraine's eastern border is a very long rough-terrain green border described by one Western migration expert as "terra incognita" in terms of the streams of people, ideas and more tangible resources that traverse the Ukrainian-Russian borderland (Interview, 4 October 2006). Kiev and Moscow began the delimitation of their common land border on maps in 1997 using the administrative boundaries of the USSR as a reference. By 2003 this process was finalised with the signing of an Agreement on the State Border between Ukraine and Russia. The agreement, however, made no mention of demarcation, which involves the build-up of physical infrastructure, mainly border posts and checkpoints, but also watchtowers and even fences. This omission was insisted on by the Russian side which did not like the idea of Ukraine fencing itself off from it. Moscow's position is that the internal borders of the former USSR should be left open to facilitate personal and commercial contacts between the countries of the former Soviet Union. While Russia is aware that open borders invite criminal activity, it prefers to deal with the problem by drawing its neighbours into regional economic and political projects. As in the case of the EU, regional integration projects downgrade the importance of borders by blurring the difference between inside and outside.

The Ukrainian authorities, on the other hand, for whom the issue is about asserting the territorial legitimacy of the young Ukrainian state, have not been satisfied with this arrangement and have repeatedly engaged Moscow in discussions on the proper demarcation of their shared border. Knowing that demarcation would be the first step to a tightened border regime, the EU too has pressed for the complete demarcation of the Ukrainian-Russian border. Demarcation is considered by the Commission an absolute necessity and a question of rule of law, constituting a legal prerequisite for the signing of readmission treaties with Russia and Belarus (Interview, 9 October 2006). At an annual meeting on Justice and Home Affairs held in 2004, the EU Troika supported the objective of complete demarcation of Ukraine's eastern and

northern borders, defining it as a priority for the coming years (European Council, 2004a: 2-3). Its importance was restated at the 2006 meeting on JHA between the Troika and Ukraine (European Council, 2006: 2).

In the meantime, it appears that Kiev and Moscow are slowly moving towards an agreement. In February 2006, the two sides reached a 'general understanding' on the necessity to demarcate their common border (Korrespondent, 2006d). A demarcation committee has been set up within the framework of the Yushchenko-Putin Commission which deals with a wide range of bilateral issues. Despite the fact that the committee is still sitting, Kiev has already made unilateral attempts to demarcate its side of the border. In 2005, the Ukrainian border guards started closing off minor relief roads along the border with Russia. The measure was justified by the need to prevent smugglers from entering Ukraine using unsupervised infrastructure (Korrespondent, 2005a). And in the spring of 2006, on orders from the presidential administration in Kiev, and in keeping with the 'Contraband – Stop!' initiative launched by the Tymoshenko government an year earlier, the Ukrainian Customs Service began the construction of a 400 km long trench along the border in Lugansk *oblast*. Construction work was subsequently suspended after it was met with an outcry from the local authorities in Lugansk (Korrespondent, 2006c). In March 2008, the second Tymoshenko government revived the 'Contraband – Stop!' initiative after a two-year intermission (Korrespondent, 2008).

Personnel

The build-up of physical infrastructure along the Ukrainian-Russian border links with the issue of the personnel responsible for manning this infrastructure. After the break-up of the Soviet Union, the new Ukrainian state inherited a completely transparent border to the east where, in the words of the first deputy chairman of the State Border Service of Ukraine, Pavlo Shysholin, "everything had to be started from scratch" with the preparation of premises and the formation of new border guard units (Global News Wire, 2004). During the 1990s, however, Ukraine's eastern border remained a low priority, in part because of the rising profile of its border to the west. In the

period leading up to the 2004 enlargement, Ukraine concentrated on policing its western borders, due to strong pressure from an EU concerned about the security situation along its expanding borderline.

After enlargement, however, amid fears that its eastern flank had been left dangerously exposed and under renewed pressure from the EU and the new member states in particular, Ukraine started recruiting personnel to man the new checkpoints erected along its border with Russia. Currently, the ratio of border guards on the eastern and western borders is roughly equal (Polyakov, 2004: 22; Interview, 27 September 2006). Plans to expand the size of the border guard service, a growing share of which will be deployed on Ukraine's eastern border, have drawn praise from Brussels. Evidently, the EU and the Ukrainian authorities share an interest in a more tightly controlled eastern border, which would allow the border regime in the west to be relaxed.

Foreign-Travel Passports

The use of foreign-travel passports at the Ukrainian-Russian border is another example of how the internal borders of the former USSR are gradually being upgraded to external political frontiers. In June 2001 the Ukrainian government discontinued the practice established since 1992 whereby nationals of former Soviet republics could enter Ukraine by flashing their internal passports, driving licences or any other form of ID, and started requiring valid foreign-travel passports at its eastern borders. The change in regulations, however, did not apply to Russian, Belarusian and Transdnistrian citizens who can still enter on their internal passports. This arrangement has remained unchanged, even though on 1 January 2005 a new regulation was supposed to have come into force making it necessary for citizens of Russia to show their foreign-travel passports when entering Ukraine. The measure had been introduced in accordance with the JHA chapter of the EU/Ukraine Action Plan (referred to in this chapter as the 2001 Action Plan on JHA) governing relations between the two sides under the European Neighbourhood Policy (Mission of Ukraine to EC, 2004).

The issue of foreign travel passports has been frequently discussed during annual meetings between the EU Troika and Ukraine. The EU position

is that border-crossing in the CIS region should only be allowed using international passports. The main reason for this is that internal passports cannot be read by document scanners (Interview, 9 October 2006). This is why the EU has urged countries in the region to adopt a regime based on international passports. The idea of formalising border-crossing in the CIS has advocates in Ukraine, among them former foreign minister Boris Tarasyuk, who in 2005 declared that "the procedures in effect at the present time, where no foreign-travel passports are required, will gradually be transformed into border-crossing procedures requiring foreign-travel passports" (*Global News Wire*, 2005). The prospect of the introduction of foreign-travel passports on Ukraine's eastern border in accordance with EU procedures would strengthen the separating dynamics already at work at that border, transforming it from a line on the map into a tangible reality.

Remote Policing

Initiatives aimed at altering the border regime between Ukraine and Russia undertaken by the authorities in Kiev with active support and encouragement from the EU are complemented by a set of practices grouped loosely around the concept of remote policing. The term 'remote policing' or 'policing at a distance' signifies the use of "remote control policies, whereby agents of social control attempt to maintain the security of Western populations by establishing checkpoints and control stations in defined zones of disorder far away from their home territory" (Bigo, 2000: 95; Zolberg, 1998). Remote policing is practiced not only at border checkpoints but in the broader transition zone within which borders lie, and even within the entire territory of target countries (Zielonka, 2001: 522). This form of policing is carried out by the EU member states themselves via liaison officers and the use of information technology to monitor and record transboundary movements. Policing at a distance also involves the transferring of controls to neighbouring countries by strengthening their capacity to filter out, as much as possible, unwanted goods, people, and capital. Because it implies the active cooperation of foreign governments, remote policing is an expression of the 'structural power' of the European Union, defined by Agnew as the ability to

"bind others into networks of consent" and to "maintain and expand these networks so that they can act at considerable distances" (Agnew, 1999: 511). An important manifestation of this networked power is the ability of the European Union to deploy liaison officers and police attachés to the countries on its eastern periphery.

Liaison Officers

The term 'liaison officer' designates "a representative of one of the member states, posted abroad by a law enforcement agency to ... third countries ... to establish and maintain contacts with the authorities in those countries ... with a view to contributing to preventing or investigating criminal offences" (European Council, 2003: 28). According to a proposed plan drawn up by the European Commission to combat illegal immigration, liaison officers "do not carry out any tasks relating to the sovereignty of States but [instead] advise and support the competent border guard authorities" (European Commission, 2002: 31). They do so by conveying EU norms, standards and recommendations pertaining to the actual conduct of border management. Liaison officers also scrutinise and audit the performance of third countries in the area of JHA, producing regular reports on the existing situation in each country (European Council, 2004b: 3).

The use of liaison officers in Ukraine is regulated by the 2001 EU-Ukraine Action Plan on Justice and Home Affairs and by its implementing Scoreboard which lists specific actions intended to meet the objectives of the Plan together with information on responsibility, timeframe and state of play for each action (European Council, 2001: 4; 2002: 14). On the basis of bilateral agreements, EU member states may post liaison officers to national consulates or executive border guard authorities, as well as to airports and other embarkation points in Ukraine that act as gateways to the European Union. Since 2003, cooperation on the use of liaison officers between the Ukrainian law enforcement authorities and their counterparts in the EU member states has been stepped up in accordance with the Implementation Scoreboard. At an annual meeting on JHA between the EU Troika and Ukraine in March 2004, the EU expressed satisfaction with the 'significant

progress' made by Ukraine in several areas pertaining to border management and control, including the use of liaison officers (European Council, 2004a: 3).

Ukraine currently hosts police, intelligence and immigration liaison officers from around twenty EU member states, including most of the new member states, particularly those sharing a border with Ukraine. These include, among others, representatives of the German Bundesgrenzschutz, the British Serious Organised Crime Agency, the Hungarian and Polish ministries of the interior, as well as JHA officials at the Commission Delegation in Kiev. The Canadian and US law enforcement agencies are also represented in Ukraine. Although most liaison officers are based in foreign embassies and consulates in Kiev and only make occasional trips to the border, they work very closely with the Ukrainian State Border Service and the Ministry of the Interior, studying the operational aspects of their activity, but also advising on police and judicial procedures in the EU, and networking with a view to creating a collegial environment conducive to cooperation. Their regular contacts with the Ukrainian authorities have been formalised in the 'Institute of Representatives of Border Security Agencies' created within the Ministry of the Interior (Interview, 4 October 2006).

This description of their activities, highlighting the advisory and representational role played by police attachés in Ukraine, sits in well with Didier Bigo's portrait of the liaison officer as "a hybrid jurist/police official, more interested in policing the politics of the European field than in policing in the more widely understood sense of the term" (Bigo, 2000: 70). His or her 'presence' (not necessarily in the physical sense) at the Ukrainian-Russian border is as much to do with the geopolitical status of that border as with the more mundane aspects of its operational policing.

Information gathering constitutes another key element of liaison officers' activity. Consistent with Council Regulation No. 377, liaison officers collect information on crime patters, trafficking routes, and the modus operandi of smugglers and counterfeiters for use at the operational and strategic levels (European Council, 2004b: 2). They also follow closely the evolution of the legal environment in Ukraine concerning JHA matters. Liaison officers can sometimes ask for specific information, for example, whether a certain individual or cargo has crossed the border from Russia. They can also

access police records or facilitate the linking-up of data management systems on the basis of bilateral treaties on information exchange between Ukraine and individual member states, such as the existing bilateral arrangement with Germany for the exchange of statistics pertaining to cross-border traffic (Interview, 11 October 2006).

Information Exchange

The deployment of liaison officers to Ukraine goes hand in hand with the development of systems for collecting information, intelligence and analysis of the various forms of transboundary movement taking place on the eastern fringes of the neighbourhood. The gathering and storage of information on cross-border flows is integral to the practice of policing at a distance. As Heather Grabbe wrote of pre-enlargement Central and Eastern Europe, "the countries on the outer rim of the Schengen zone not only have to control traffic through their frontiers more carefully, but they also have to develop a sophisticated infrastructure for keeping data on who and what is crossing their borders" (Grabbe, 2000: 527).

The necessity to clock people, vehicles and merchandise in and out as they cross the Ukrainian-Russian border is justified by the need to establish an 'early warning system' to provide immediate information on first indications of illegal immigration. Conceived by the Commission as a web-based secure intranet site, the early warning system allows law enforcement agencies "to deliver and obtain information as easily as possible, seven days a week, 24 hours a day" (European Commission, 2002: 28-29). The possible participation of Ukraine in this system was first mentioned in the 2001 EU-Ukraine Action Plan on JHA which proposed measures for "exchange of technical, operational and strategic information between EU member states and Ukrainian law enforcement agencies" (European Council, 2001: 2, 4).

The JHA Implementation Scoreboard adopted in October 2002 specified additional measures required to meet the objectives of the Action Plan. These included "the establishment of a unified automated system of control of foreigners' entry and departure" and "cooperation between Europol and the competent Ukrainian agencies" (European Council, 2002: 4, 15).

Furthermore, the EU/Ukraine Action Plan signed in March 2005 and the 2004-2006 TACIS National Indicative Programme for Ukraine provided for improved computerisation of the customs administration, the standardisation of international trade related documentation for all agencies working at the border, and the creation/improvement of databases, information gathering systems and observatories for organised crime, including cross-border crime (European Commission, 2005: 12; 2003b: 12).

Implicating Ukraine's eastern border into networks of data sharing and surveillance, however, is not a paper exercise. There are over 30 crossing points operating at the land border with Russia which act as chokepoints where people, goods and vehicles can be audited and logged as they cross into Ukraine. In 2001, Kiev introduced compulsory registration for all persons crossing Ukraine's eastern border (Mahnyuk, 2002: 174). Registration was progressively computerised, starting with a pilot project at the Kharkiv-Belgorod section of the border (Zhurzhenko, 2004a: 220). This proved rather ineffective because Russian internal passports are not readable by scanners provided by international and EU donors and have had to be processed manually. More recently, the Ukrainian government introduced immigration cards for entry and exit at all its international border crossing points (Shpek, 2006), with constant improvements being made in the transmission of information from border checkpoints to a central network.

The main data management system currently used by the Ukrainian Border Guard Service is a computer software called GART. Developed by the Ukrainian Academy of Sciences in the 1990s, GART keeps track of how many people and vehicles cross Ukraine's borders and helps officers to plan their patrol routes. GART is not considered a successful software. It is written in an arcane computer language that makes it incompatible with the systems used by other ministries (Interview, 4 October 2006). In 2001, the Ukrainian government commissioned a new data management system called Arkan linking the State Border Guards with the Intelligence Service, the Ministry of the Interior, and the Ministry of Foreign Affairs of Ukraine. While Arkan remains work in progress, it already provides a platform for data sharing, connecting the dots between the different services in a more 'joined-up approach' to border management recommended by the EU.

Similar improvements are underway in the area of customs control. In March 2005, the Head of the Ukrainian Customs Service, Vladimir Skomarovski, announced the Tymoshenko government's intention to render customs control at Ukraine's borders automatic. In addition to scanners already operating at the border that record the type, registration and load of commercial carriers entering Ukrainian territory, he envisaged the installation of new web-based equipment which would capture on camera all incoming vehicles and their contents, and would transmit their image via satellite connection to a central office in Kiev (*Korrespondent*, 2005b). If and when this panoptic vision becomes a reality, it will create a system which, not unlike an anti-virus programme or a firewall, will operate quietly in the background, scanning, filtering, and turning intangible social processes like migration and contraband into 'hard observable facts' (Walters, 2006b: 152).

The measures introduced, or about to be introduced, at the Ukrainian-Russian border create a basis for information exchange and cooperation between Ukraine's law enforcement agencies and Europol with which Ukraine is negotiating a strategic agreement (European Council, 2006: 2). Europol acts as clearing-house for information and analysis of criminal intelligence across Europe and supplies "elements of strategy" that allow the EU to develop adequate common policies to tackle various transboundary threats (European Commission, 2002: 28, 32). While Europol has no collection facilities of its own, it relies on liaison officers and police attachés posted by the member states to 'countries of origin and transit' like Ukraine (Brown, 2004: 113). Liaison officers act as "trusted human intermediaries" in the interconnection between databases (Bigo 1998: 220) by requesting information from systems like Arkan and GART and then passing it on to their national capitals, who in turn make it available to Europol and the newly created European Agency for the Management of Operational Cooperation at the External Borders (FRONTEX).

Equipment and Training

The provision of equipment and training to Ukrainian frontier services constitutes another important dimension of policing at a distance as practiced

by the EU and its member states. The transfer of controls to Ukraine's eastern border necessitates the reinforcement of the technical capacities of Ukrainian border guards and customs officials to carry out border checks according to EU standards. High-standard border controls are seen by the European Commission as a contribution not only to the deterrence of illegal immigrants, but also to the prevention of entry of dangerous or illegal goods, the identification of persons wanted for arrest or extradition, and the overall management of cross-border traffic for customs and excise purposes (European Commission, 2002: 30).

Plans for the development of a system of comprehensive border management on all of Ukraine's borders are laid out in the EU Action Plan on JHA in Ukraine and in its implementing Scoreboard. Under Scorecard 2 on Border Management and Visas, the European Commission and the member states are enjoined to work together in helping Ukraine with "the provision of modern equipment and facilities for border checkpoints and units responsible for green border, especially in the northeast". In the same document, the United Kingdom is tasked with "assessing capacity on Ukraine's eastern border", while Sweden is entrusted with enhancing the ability of Ukrainian border guards "to detect false documents and [with] improving their understanding of Schengen rules and standards" (European Council, 2002: 6). Because the Ukrainian-Russian border has had a relatively short existence as an international boundary, significant resources are required to bring it up to EU standards, resources which Ukraine does not have but which the EU is happy to provide.

In its 2001 Country Strategy Paper on Ukraine, the Commission pledged 22 million euro of TACIS funding for the period 2002-2003 towards training programmes for border guards, customs and other related agencies. The funding package also included assistance in the form of computer and telecommunications equipment, x-ray units and document readers (European Commission, 2001: 20-21). By 2003 this budget had risen to 60 million euro targeted at "supporting Ukraine's efforts in strengthening its overall border management system including its eastern border". Among the specific measures mentioned in the budget are "supply of modern border management equipment", "infrastructure up-grading at border crossings", and

"improved training levels for a significant number of border guards and customs service staff" (European Commission, 2003b: 12-13). At a meeting on JHA held in 2004 between the EU Troika and the Ukrainian authorities, the objectives of the 2001 Action Plan and its implementing Scoreboard were confirmed, with the northern and eastern borders of Ukraine becoming a priority (European Council, 2004a: 2).

In June 2004, the EU provided the Ukrainian border guard division in Sumy *oblast* in the northeast with a large number of Ukrainian-made vehicles and radio and automatic passport control systems. The aim was to improve the efficiency of passport control through databases at one of the longest and busiest sections of the Ukrainian-Russian border, as well as to enable the Ukrainian authorities to conduct statistical analysis of individuals and transport crossing that border (EC Delegation Kyiv, 2004). In 2005, as part of the project "Border Management Improvement: Providing Specialised Equipment to the Chernihiv, Kharkiv, Lugansk and Donetsk Border Regions", the EU delivered over four million euro worth of technical and computerised equipment and transport vehicles to the relevant border guard detachments in the east. And in 2006 another five million euro was allocated for the purchase of CO₂ detectors, night-vision goggles, and transport vehicles for the abovementioned four detachments (State Border Service, 2006). It seems that an increasing share of TACIS funding earmarked for the technical modernisation of the Ukrainian State Border Service is targeted at the country's eastern border in an effort to establish "a critical mass of programmes" (Bojcun, 2005: 7) to alter the border regime between Ukraine and Russia.

In terms of training, EU-Ukraine cooperation has developed largely through national assistance programmes run by the member states themselves. For example, a long-term bilateral arrangement exists between Kiev and Berlin for the education of Ukrainian personnel in Germany. As part of this agreement, cadets from the Khmelnytsky academy for border guards receive extensive training at the German border guard academy in Lübeck. Ukrainian border officers have also received training in Austria and Spain (EC Delegation in Kyiv, 2004). In the second half of 2005, the UK Presidency organised several visits by British immigration and customs officials to the

Ukrainian Border Service headquarters in Kiev. The visits featured several seminars in which UK experts presented elements of the British policing model and the specific know-how associated with it. The advice and assistance provided by individual member states was described as complementary to the Union's overall effort to confer greater visibility and control over cross-border traffic in the Ukrainian-Russian borderland (Interview, 31 October 2006).

Private Operators

Remote policing, of course, is not carried out by the EU and its member states alone. Private and quasi-public companies are also involved in the provision of technical assistance and training to Ukrainian customs officials and border guards. One private operator that has been particularly active on Ukraine's eastern border is the British customs and excise firm Crown Agents. Crown Agents is a private limited company providing, on commercial terms, services which assist 'development' worldwide. Formally a British public corporation, the company is now owned by the Crown Agents Foundation, whose members include the British Government, major firms, and non-governmental and international organisations (Crown Agents, 2004).

In March 2002, Crown Agents undertook a Foreign and Commonwealth Office (FCO) funded diagnostic review of Ukraine's customs and border control operations, examining equipment, facilities and operational techniques, and reporting on their effectiveness and compliance with 'best practice' (Crown Agents, 2002; Global Opportunities Fund, 2003-4: 51). The review identified a series of strategic blind spots in the districts of Kharkiv and Sumy on Ukraine's eastern and north-eastern border with Russia. The situation on the eastern land border in Kharkiv *oblast* was judged to be particularly problematic because of the large number of immigrants thought to have crossed that border illegally and because of the significant revenues lost to the Ukrainian state through lack of effective imports/exports control. Structurally, the problem lay in the fact that the potential of the Ukrainian Customs Service to participate in the detection of illegal immigrants had been under-utilised. On the technical side, the problem consisted in the static

nature of customs control evidenced by the lack of mobile forces and risk profiling systems at the customs department in Kharkiv (Crown Agents, 2004).

In order to address these issues, Crown Agents organised two FCO-funded workshops in Kharkiv in October 2002 and late 2003 during which the company provided technical assistance and on the job training to the local Customs Service and Border Guards (Quarterly Magazine of the British Embassy in Kiev, 2003). Crown Agents staff also supervised the establishment of so-called Flexible Anti-Smuggling Teams (FASTs) equipped with the vehicles and technology to move between multiple border crossings. Developed by the company in the 1970s to prevent gun running between Northern Ireland and the Republic of Ireland, these mobile teams would target specific points along Ukraine's lengthy eastern land border, acting on the basis of information from risk profiling systems that enable them to anticipate where and when illegal activity would take place. The novel aspect of this initiative was the involvement of customs officials in the detection of illegal immigrants. The recommendations of the British expert team formed the basis of an experimental project currently implemented on the eastern border to train 'universal border guards' capable of policing both checkpoints and segments of the green border (Interview, 27 September 2006). In 2004-5, Crown Agents followed through with another project funded by the British government to develop the customs department in Kharkiv with a view to further strengthening the control of people and merchandise along the border with Russia (Crown Agents, 2004; Global Opportunities Fund, 2004-5: 71).

The Spanish IT control systems manufacturer Telvent Energía y Medio Ambiente is another private operator active in the east. The company specialises in the manufacture of communications, surveillance and control equipment for real time monitoring of vehicular and maritime traffic. In late 2003, Telvent was awarded over one million euro of TACIS funding to build a data transmission system using high frequency wireless technology for the State Border Guard Detachment in Sumy *oblast* on the eastern border (ICEX, 2006). The system enables border guards to produce records of cross-border traffic by instantaneously transmitting data from stationary and handheld terminals to a central databank such as GART. In the same year, the Dutch electronics manufacturer DC – Hadler Networks S.A. won a contract from the

European Commission to supply border control equipment in the form of portable document examination and vehicle inspection devices, as well as camcorder and video recording equipment to be used by border guard units in Sumy (EuropeAid, 2003). Through such means for constant monitoring and recording of incoming traffic from Russia, Ukraine's eastern border is gradually "folded with the electronic, virtual territory of databanks" (Walters, 2002a: 574)

There is further evidence of private companies offering marketised solutions to Ukraine's border-related concerns. For example, the German firm Bundesdruckerei participated in an EU tender to supply document verifiers for the eastern border. The equipment automatically scans, verifies and digitalises customs- and travel-related documentation, and stores it in a central database (Interview, 4 October 2006). In the event, Bundesdruckerei won the contract and supplied a limited number of document verifiers to be installed at border checkpoints, as well as at Kiev and Odessa international airports. Other successful tenders included those of the Spanish Algoritmos Procesos Y Diseños S.A., which provided half a million Euro worth of computerised equipment to be used by the Ukrainian Customs Service, and of the Dutch firm Computer Solutions BV which, in consortium with Datro BV, supplied the Ukrainian border guard agency with a large number of document magnifying and thermo imaging units to the tune of just under 4 million Euro (EuropeAid, 2004a; 2007). All the contractors listed above were obliged not only to provide the equipment specified in the tender but also to train the relevant Ukrainian authorities in how to use and maintain it.

Not all attempts to provide technical solutions to the problem of permeable borders have been successful however. In another funding bid, the European Aerospace Defence Systems Group (EADS) wanted to upgrade the entire information management system of the Ukrainian State Border Service, as well as to lease its Eurocopters for aerial surveillance of the eastern border. In June 2005, EADS signed a Memorandum of Understanding with the Tymoshenko government for cooperation in the areas of homeland security and border control (EADS, 2005), but pulled out later that year when the political situation in Ukraine became unstable. BAE Systems too has

approached the Ukrainian government with offers to provide aircraft for border management purposes (Interview, 4 October 2006).

These examples show that the EU and its member states are often not directly involved in the administration of technical assistance and training programmes related to border management and that these are increasingly outsourced to the private sector. Nor are EU-based firms and agencies the only players in the field of border control in eastern Ukraine. Under its State Partnership Programme, the United States too sponsors activities similar to those of Crown Agents. An example given by Katherina Gonzales is the exchange programme between the California National Guards and the Ukrainian Border Service. The programme sought to familiarise the Ukrainian side with the necessary equipment for effective border security (Gonzales, 2004: 52). Similarly, the American defence contractor Raytheon Technical Services Company has since the beginning of 2005 provided aerial surveillance of the maritime section of the Ukrainian-Russian border as part of the 'Second Line of Defence' initiative sponsored by the US government (Raytheon, 2005: 18; Interview, 28 September 2006). The fact that the United States and the European Union have pursued similar objectives in the Ukrainian-Russian borderland demonstrates that, in the context of the eastern neighbourhood at least, Europeanisation and Westernisation amount to one and the same thing (Emerson, 2004: 2).

Whether the ulterior motive behind these technical assistance and training programmes has been "to extend one's zone of influence in equipment, technology and specific know-how", as suggested by Bigo (2002: 223), is difficult to ascertain. One can speculate whether the training sessions organised by Crown Agents and others were turned into sales promotions for British surveillance technology and whether acceptance of British policing models, such as FASTs, was linked to access to sensitive data via liaison officers (Bigo, 2002: 223). Indeed, every spring in Kiev a conference titled "Step by Step to EU Standards" is organised and paid for by Western contractors. The conference provides an opportunity for Western specialists to influence their Ukrainian counterparts on the appropriate ways and means of improving border security in Ukraine. In addition, Ukrainian experts interviewed by the author in Kiev concurred that, as a general rule, the

Commission shows a preference when awarding contracts for equipment made in the member states, as opposed to Ukrainian-made equipment which one Western expert described as reverse-engineered Russian equipment and therefore of inferior quality (Interview, 29 September 2006).

Closer examination, however, reveals that local suppliers were by no means excluded from lucrative contracts administered by Western donors. The Kiev-based companies Bankomzvjazok and Ukrainian Trade Industrial Corp were successful in their application for TACIS funding to supply the border guard detachment in Sumy oblast with computer hardware and patrol vehicles respectively. In 2004, the former provided networking equipment, along with operating and database software, while the latter delivered cross-country lorries and mini-buses at approximately half a million Euro per contract (EuropeAid, 2003). Because of the sensitive nature of border management, in areas such as radio and electronic communications, for example, only selected Ukrainian companies are authorised to operate in certain restricted zones near the frontier. Thus in December 2004, Bankomzvjazok won a large contract from the European Commission to install computer control equipment at the Lughansk, Donetsk, Kharkiv and Chernighiv sections of the Ukrainian-Russian border (EuropeAid, 2004b). These examples demonstrate how the European Commission sometimes chooses, or is forced to choose, to rely on local operators for the provision of services related to the policing of borders in the eastern neighbourhood. Yet the perception in Kiev remains that the lion's share of EU funding in the country has been claimed by west European contractors.

Be that as it may, what the various activities described above amount to in their totality is the active and purposeful intervention on the part of the EU and its member states in the border regime - and by implication, in the border politics - between Ukraine and Russia. These activities also throw up some interesting questions about how 'action at a distance' increasingly depends on private intermediaries, and how these intermediaries shape the actual character of EU involvement in the eastern neighbourhood. Their reliance on military or intelligence hardware and expertise for policing the eastern border is significant as well for the way in which the West manages to approach Russia, quite literally (Christiansen et al, 2000: 396).

Legislative Approximation

The ability to effectively police at a distance hinges on the selective transfer of EU immigration and border policies and their successful introduction into Ukrainian law. Remote policing cannot function properly without appropriate changes in the national legislation. For example, the introduction at the eastern border of Flexible Anti-Smuggling Teams (FASTs) supervised by Crown Agents in 2003-4 eventually ran into difficulty because there was no legislative basis for mobile teams in Ukrainian law (Interview, 31 October 2006). Likewise, full cooperation with Europol is yet to take place because Kiev is not party to a Council of Europe convention on data protection (Interview, 26 April 2006). Similar problems stem from the fact that the Ukrainian Border Guard Service is a militarised agency directly subordinate to the President of Ukraine. Its military status affects cooperation with law enforcement agencies from the EU in terms of differences not only in operational procedures, but also in regulations concerning secrecy, hierarchy and remit that are enshrined in Ukrainian law. This is why an important part of EU activity in Ukraine has been to ensure that Ukrainian legislation in all JHA-related areas begins to approximate EU norms and standards.

A brief examination of the relevant documentation reveals the scale of legislative approximation required to bring Ukrainian law in line with the Schengen *acquis*. The 2002 JHA Implementation Scoreboard lists a whole host of European and international conventions, protocols and treaties in the areas of migration, border management, judicial cooperation, organised crime and terrorism which Kiev must ratify and implement if it wants to qualify as a good neighbour to the EU. These range from the 1999 European Criminal Law Convention on Corruption to signing readmission agreements with Russia and Belarus to transforming the Border Guard Service from a military organisation into a law enforcement agency (European Council, 2002). The Scoreboard even envisages the development of a new Ukrainian constitution that would enshrine the legislative changes recommended by the EU, as well as a new constitutional court able to interpret these changes. The 2005 EU/Ukraine Action Plan opens the door to further legislative approximation,

particularly in the area of customs-related legislation (European Commission, 2005: 11).

In 2005 the Ukrainian government undertook a major overhaul of its customs-related legislation in order to bring the country closer to meeting the requirements of a free trade agreement that Kiev hopes to conclude with the EU. The effort resulted in amendments to the laws on customs tariffs, valuation, classification and codification of imported goods, all of which were brought in line with EU and WTO standards. Plans are also underway to transform the State Border Guard Service from a militarised agency into an EU-type law enforcement body that follows the same operational procedures as its counterparts in Western Europe. Kiev's intention to follow EU recommendations pertaining to the status of its relevant policing agencies underscores an important point, namely that direct policy export is not only about legislative or technological approximation, but also about the standardisation of procedures that shape the conduct of law enforcement officials at a more routine level (Walters, 2002b, 100).

There has also been a breakthrough on the issue of readmission, which has featured prominently in annual meetings with the EU Troika in recent years. Under the terms of the readmission treaty signed recently between Brussels and Kiev, Ukraine is obliged to readmit not only its own citizens, but also third-country nationals and stateless persons when it can be established that they had previously travelled through its territory on their way to the EU (European Commission, 2002: 31). Because of Kiev's desire not to become a receptacle for returned asylum-seekers, the treaty will almost certainly have a serious impact on the border politics between Ukraine, Belarus and Russia. It will inevitably call into question the current status of their shared border and will intensify the debate between Kiev and Moscow about the necessity of concluding their own readmission agreement. This in turn will impinge on the issue of demarcation and the use of foreign-travel passports, which has been a major bone of contention between the two sides.

By and large, legislative approximation in the area of JHA has been at the core of EU activity in Ukraine and has served as a measure of influence in the eastern neighbourhood. The 2003 National Indicative Programme identified an "improved legislative framework aligned on EU standards" as an

indicator of success for TACIS funding in Ukraine (European Commission, 2003b: 13). In December 2005 and early 2006, two expert missions were sent to Kiev to evaluate the progress made since 2001 on the JHA front (European Council, 2006). Their recommendations formed the basis of a new revised Action Plan on Freedom, Security and Justice, together with a new updated scoreboard, which is currently under discussion and whose details, at the time of writing of this chapter, are as yet unknown.

An important instrument for bringing about legislative change in Ukraine is provided by the Ukrainian-European Policy and Legal Advice Centre (UEPLAC). Active since the mid-1990s, the centre imparts knowledge and expertise relating to the approximation of the legal system of Ukraine to that of the European Union. Through a combination of information gathering, training and consultancy work, UEPLAC has sought to influence new legislation in sectors of particular interest to the EU at every stage of the drafting process. Since 2002, the centre has focused on assisting the country in fulfilling its commitments under international agreements like the 2001 Action Plan on JHA (EC Delegation in Kiev, 2002). In 2006, UEPLAC received a new financial lifeline in the form of a major grant from the European Commission that enables it to continue to facilitate the export of EU legislative instruments by overseeing their incorporation into Ukrainian law.

Another avenue for direct policy export is the so-called 'institutional twinning mechanism' between public administrations launched by the Commission on 2-3 May 2006 in Kiev. Twinning is an important tool under the ENP used to approximate Ukrainian legislation to that of the EU. Used since 1999 under the PHARE programme in the accession states of Central and Eastern Europe, Twinning is instrumental in "introducing EU public administration best practices inspired by European legislation and regulations to the partner country [i.e. Ukraine], as well as enhancing collaboration among public administrations of both EU Member States and partner countries" (EC Delegation in Kiev, 2006). This mechanism involves the secondment of civil servants from the member states to work in Ukrainian ministries and other parts of the public administration for extended periods of time. Not unlike liaison officers, these officials act as permanent contact points between public institutions, with the added benefit of actually being embedded in the

Ukrainian administrative apparatus, with access to its premises, databanks and networks (Interview, 26 September 2006). Resident officials are responsible for the day-to-day implementation of twinning projects, of which four were launched in Ukraine in May/June 2006 (EC Delegation in Kiev, 2006).

Twinning projects are governed by detailed working plans agreed in advance, but usually involve updating the Ukrainian side on EU regulations and best practices, organising exchanges of specialists, introductions to software systems, and such like (Interview, 26 September 2006). The suitability of using twinning advisors for customs and border management tasks was agreed at the 2006 meeting on JHA between the Troika and Ukraine. The European Commission allocated over two million Euro towards a harmonisation project in the area of customs and borders, the first component of which will be implemented through twinning with individual EU member states. An agreement has also been reached on the use of the Technical Assistance Information Exchange (TAIEX) programme for short term transfer of experience in the area of border management (European Council, 2006: 2). The possible use of non-standard assistance programmes like Twinning and TAIEX will further strengthen the ability of the EU to affect legislative and institutional change in the field of border enforcement in Ukraine.

Discussion and Implications

The direct export of regulations and legal instruments resulting in the overhaul of Ukraine's legislation relating to customs and border management, and the adoption of restrictive measures in terms of entry and exit control at the Ukrainian-Russian border, cannot however be reduced to the fight against illegal immigration and cross-border crime. To begin with, the demarcation of borders does not necessarily make them less penetrable (Blake, 2000: 6). The porosity of Ukraine's eastern border will not be changed by the erecting of border posts as illegal immigrants can simply walk past them (their density is one per every 20 km which is the ratio on the former Soviet boundary). Likewise, the introduction of foreign-travel passport checks and other formalities will not automatically deter immigrants and asylum seekers from

entering Ukraine but will instead drive them into criminality. As argued by Bort, the only connection between immigration and organised crime is human trafficking and that "is a consequence of frontier restrictions rather than of open borders" (2002: 207). By introducing border tightening measures, "would-be refugees will be driven into the arms of organised human smugglers" who have made it their business to circumvent border controls (Bort, 2002: 202).

Furthermore, turning the Ukrainian-Russian border into an 'observable space' through the use of databases accessed by liaison officers from Western security and intelligence agencies exceeds the rationale of combating illegal immigration. By plugging the Ukrainian border checkpoints into complex systems for electronic storage and exchange of data such as GART or Arkan, and by institutionalising cooperation with agencies like Europol, the EU and its member states gain strategic knowledge and control over all aspects of cross-border traffic - commercial, official, even personal - between Russia and Ukraine. This has implications above all for Russian companies who depend on the border for exchanges with their Ukrainian subsidiaries. In fact, the ease of crossing internal CIS borders has been one of the motivating factors behind Russian investment in Ukraine (Crane et al., 2005: 424).

The frontierisation of the Ukrainian-Russian borderland also touches upon the all-important issue of energy. The EU is planning to install oil and gas meters on the pipelines crossing the border from Russia into Ukraine (*EU Observer*, 2006). This will extend the EU's field of vision over the energy transactions taking place between the two countries and will thus strengthen its position in negotiations with Gazprom. The implications, of course, are not limited to commercial entities alone. During the summer of 2006 anti-NATO protests in Crimea, a number of Russian journalists and political activists were stopped and turned back at the border on orders from the central authorities in Kiev concerned about the potential anti-Ukrainian character of their activities. This would not have been possible had it not been for the stricter entry controls put in place at the eastern border with active EU support and encouragement. The positioning at the Ukrainian-Russian border of equipment and personnel to keep data on who and what is moving between

the two countries is to do not only with the desire to control illegal immigration but is also indicative of the budding geopolitical ambitions of the European Union in terms of its growing inquisitiveness/assertiveness and outreach.

The proliferation of enforceable rules and regulations on Ukraine's eastern border can also be seen as a manifestation of the "shift between systems of regional order and territoriality" (Walters, 2004: 689) brought about by EU activity in the region. As a result of intentional and programmatic action on the part of the EU and its member states, the Ukrainian-Russian border is gradually being disarticulated from a post-Soviet arrangement whereby people and goods can move relatively freely between the two states, and simultaneously rearticulated into a Schengen-centred system of governance based on selective denial of territorial access. The border thus acquires regulating functions characteristic of the external boundaries of major regional blocs (Blake, 2000: 16). These act as filters or lock gates for flows of goods, people and investments that come from outside the polity within which the state border is being subsumed.

The regionalisation of boundary functions in eastern Ukraine carries the risk of significantly affecting the status of the Ukrainian-Russian border, the border regime and the perspectives for cross-border cooperation (Zhurzhenko, 2005). The introduction of new procedures and formalities in accordance with the JHA Action Plan and its implementing scoreboard is likely to cut down the number of crossings, reducing economic, social and civic interactions alike. Because cross-border ties carry not only people and goods, but also ideas, beliefs and values, the processes of cultural and political diffusion between Ukraine and its eastern neighbours are also likely to be disrupted (Schulman, 1999: 918). This will strengthen the differentiating dynamic of the border and will lead to further dislocation of cross-border relations in the Ukrainian-Russian borderland, transforming it from an integrated into an alienated borderland (Newman and Paasi, 1998: 139).

The suspicion that Ukraine's eastern border is being redesigned to coincide with new regional alignments is strengthened by the absence of any counterbalancing action on the part of the EU to reduce the harmful effect of stricter border controls. Unlike Ukraine's western border with Poland where the EU spends some money on flanking measures to mitigate the impact of

enlargement on cross-border relations (Grabbe, 2002: 96), no equivalent financial instruments have yet been designed for the Ukrainian-Russian borderland. In the Commission's view, the encouraging of regional cooperation has not so far formed a strong component of EU policy towards Russia and the in-between states, partly because such cooperation "is already quite strong, oriented around traditional flows of trade and investment to and from Russia" (European Commission, 2003a: 8).

Although the Commission in its proposal for the 2007-2013 financial perspective envisages the allocation of resources for cross-border cooperation and related activities, these are unlikely to benefit Ukraine's eastern border by virtue of the fact that the terms of reference of the European Neighbourhood and Partnership Instrument (ENPI) under which any cross-border funding will be allocated stipulate the involvement of and direct relevance to at least one EU member state (European Commission, 2004: 26). The limited geographic coverage of the ENPI, confined as it is to the regions adjacent to the Union's external border, has prompted some commentators to state that, so far at least, "the EU sees no interest in supporting cross-border cooperation between Ukraine and Russia and feels no responsibility for the negative effects of strengthening [their] border" (Zhurzhenko, 2005: 151).

The extension of the legal boundary of EU authority beyond institutional integration, defined by Sandra Lavenex as 'external governance', is also fraught with strategic significance. The formal multiplying of legal texts, which Kiev must adopt and implement to the best of its ability, "is not only a benevolent projection of acquired civilian virtues but also a more strategic attempt to gain control over policy developments through external governance" (Lavenex, 2004: 685). Through efforts to gain exclusive legal jurisdiction over the eastern neighbourhood, the EU effectively widens the misfit between Ukraine's legislation on migration and borders and that of Russia and the rest of the Commonwealth of Independent States. To the extent that it is successful in reorganising the border regime between the two countries, the European Neighbourhood Policy would make reintegration between Ukraine and Russia at the level of borders an impossibility.

That said, the border control activities conducted under the ENP along Ukraine's inter-state border with Russia are not motivated by traditional geo-strategic concerns. Remote policing after all is not about defending a line on the map understood in the conventional military sense (Andreas, 2003). The idea rather is to push the boundary of customs and immigration control outward by doing more inspection work closer to the point of origin of would be asylum seekers and contraband or otherwise dangerous goods. Instead of a security perimeter consisting of a string of visibly demarcated policing outposts, what the EU is effectively trying to create is law enforcement buffer zones spanning entire countries and regions. Seen in this way, the control functions advanced by the ENP in the eastern neighbourhood are not necessarily concerned with the defence of specific locations. They are in this respect almost non-territorial in character.

And yet the policing activities undertaken by the Ukrainian government in close cooperation with law enforcement agencies from the EU have taken place, and produce their effects, precisely at Ukraine's borders. It is there that most of the inspection work is concentrated and made visible, as attempts to transform the entire Ukrainian transportation system into a dispersed, mobile border – something that is already happening in the EU (Walters, 2006a: 194) - are not yet in evidence. If borders between EU member states can now be crossed by car without slowing down, the compensatory measures deemed necessary to safeguard unimpeded travel require the progressive shifting of border controls further east and, increasingly, south.

The EU-sponsored activities taking place at the frontier between Ukraine and Russia have in recent years mirrored developments along the country's border with another former Soviet republic – Moldova. Ukraine's 1,200 kilometres long south-western border contains a long segment that the country shares with another political entity, the as yet unrecognised Republic of Transdnistria. Sandwiched between its northern and southern neighbours, the Republic of Transdnistria has since 1990 led a virtually independent existence on the margins of the international society of states. Lacking international recognition, yet enjoying political and economic support from Moscow and, until recently, Kiev, the Transdnistrian authorities have operated a border-crossing and customs regime independent from the rest of Moldova.

In the 1990s, commercial and human traffic across the Transdnistrian segment of the Ukrainian-Moldovan border went virtually unimpeded, reflecting the strong economic and societal ties existing between Kiev and Tiraspol (the capital of Transdnistria). In 2003, however, Ukraine pledged to tighten the border regime with its unrecognised neighbour, particularly where the import of goods from Transdnistria was concerned. The initiative came to naught, mainly because of the strong opposition it encountered from the Ukrainian business community which had a considerable stake in free and unimpeded cross-border traffic between the two countries (Johansson, 2006: 512). The change of government in Kiev gave the initiative a fresh impetus with the introduction by the Ukrainian side in March 2006 of stricter customs controls whereby commercial operators from Transdnistria bringing goods into Ukraine have been required to equip themselves with certificates of origin issued in the Republic of Moldova. Because of the nature of relations between Moldova and its breakaway republic, this caused considerable problems for Transdnistrian traders, prompting the authorities in Tiraspol to declare that Ukraine had imposed a virtual blockade on its tiny neighbour.

The change of policy in Kiev was welcomed by the EU for whom relations with Moldova had grown in importance in the years leading up to the 2007 enlargement into South-East Europe. Wishing to achieve a speedy resolution to the Transdnistrian conflict on terms favourable to Chisinau, and alarmed by unconfirmed reports of shipments of illegal goods and human trafficking across the Ukrainian-Moldovan border, the Union took direct action to ensure the effective policing of that border. The outcome was the launch in December 2005 of the EU Border Assistance Mission or EUBAM tasked with monitoring the flow of goods across the Transdnistrian segment of the border between Ukraine and Moldova. The overall objective of the Mission was to create a 'transparent and secure border' and thus contribute towards the settlement of the conflict by helping Moldova to establish full control over its entire customs territory (Council, 2006b; Memorandum, 2005: 7).

Operating under the auspices of the European Commission, EUBAM received funding through the Rapid Reaction Mechanism of over 20 million euro. Its staff has been progressively expanded and by the end of 2006 reached levels of more than 100 officials, one third of whom were drawn from

the Commission and the rest seconded by EU member states' customs and border guard agencies (EUBAM, 2006: 3). Protected by diplomatic immunity and enjoying full freedom of movement within and between the territories of the Republic of Moldova and of Ukraine, the Mission's expatriate personnel is supported by field offices in Odessa and Chisinau, as well as by the governments of both countries. Similar to the liaison officers operating in Kiev and at the Ukrainian-Russian border, and in keeping with the Mission's advisory technical role, the EUBAM team "provide practical advice to relevant authorities in the Republic of Moldova and in Ukraine on issues related to border, customs and fiscal matters and support actions undertaken for the benefit of these authorities" (Memorandum, 2005: 1)

The permanent stationing of EU security personnel, however, represents a different level of engagement from the one found at the country's eastern border. In addition to providing on-the-job training and advice and assisting in the upgrading of infrastructure, the EUBAM experts/officials also perform functions that are better described as intrusive verification than the mere transfer of expertise. According to the trilateral memorandum of understanding establishing the Mission, its staff "when carrying out any assistance, will have the right to make unannounced visits to any location on the Ukrainian-Moldovan state border, including all Border Units and Customs Posts [... in order] to examine and to copy customs import documents and supporting commercial records". The document further stipulates that "[t]he experts of the Mission, in any case of doubt, may request the head of the relevant customs or border guard unit [...] to order the re-examination and re-assessment of any consignment of goods on which customs duty or other revenue has already been assessed and collected" (Memorandum, 2005: 2). Their powers thus go beyond the advisory and border on the executive. The direct involvement of EU security agencies in the policing of sections of the eastern neighbourhood is likely to further disrupt cross-border exchanges in the region by creating filters and lock gates far away from the territory of EU member states. Initially set up for a period of 24 months, the EUBAM has seen its duration extended beyond November 2009.

This dynamic of expanding spheres of exclusion (Uçarer, 2001) is also present within Ukraine itself as any relaxation of the regime on its western

frontier is made conditional on the strengthening of controls in the east. The scenario, therefore, of having to make a final choice between a pro-Russian and a pro-European orientation that has dominated Ukrainian politics since independence is now being played out at the level of border politics (Zhurzhenko, 2004a: 221). This state of affairs, whereby Ukraine's eastern border acquires the functions of a geopolitical weather-vane pointing to the prevailing power relations on the European continent, sits in well with Bigo's conceptualisation of the frontier as "a political technology which records the balance of power at a particular time in space" (Bigo, 1998: 149).

Meanwhile, Ukraine's efforts to establish an integrated border management system in accordance with EU prescriptions have drawn negative reactions from its eastern neighbour. At a meeting with the German Chancellor Gerhard Schroeder in 2005, Vladimir Putin reportedly compared the prospect of a Schengen-like regime on Ukraine's eastern border with the post-war division of Germany (*Kommersant*, 12 April 2005). The comparison invoked by the Russian president was based on the fact that large numbers of ethnic Russians live in Ukraine. At the same time, Moscow has become decidedly uncooperative in matters relating to the management of its shared border with Kiev. The process of demarcation has practically ground to a halt as the committee established in 2005 within the framework of the Yushchenko-Putin Commission is yet to meet. Russia has also shown its displeasure with developments in Ukraine by introducing compulsory registration for the millions of Ukrainian migrant workers residing within its borders. Against the backdrop of worsening political relations between the two countries, the status of the Ukrainian-Russian border has become an additional irritant in the dialogue between Kiev and Moscow.

Conclusion

This chapter has sought to demonstrate that Ukraine is not integrated into the EU neighbourhood as though its territory and population were previously un-integrated or as of it stood as a completely autonomous, self-contained entity (Walters, 2004). Rather its articulation in the EU regime of governance is predicated on its disarticulation from alternative regional integration setups. In

assisting Ukraine with the establishment of a new border regime in the east, the EU encourages the country to behave more like an 'independent' state and less like a member of the Commonwealth of Independent States in an area of vital importance to the organisation. Scholars such as Richard Whitman speak of the 'great sucking sound' that can be heard at the periphery of the European Union as other regional organisations are hollowed out by the more powerful centripetal forces of European integration (Whitman, 2005). This figure of speech, however, obscures the fact that regional alternatives are dismantled as a result, not of spontaneous, but of quite deliberate and purposive intervention by the European Union in the system of order existing in the eastern neighbourhood. In the case of Ukraine, issues of asylum and migration are instrumentalised by the EU in its ambition to influence the border politics between Ukraine and Russia.

While EU initiatives targeted at the management of Ukraine's eastern border are clearly motivated by the existence of threats of a bio-political nature, these are nonetheless overlaid by geopolitical and geo-economic concerns. If Moscow is often said to be using 'energy diplomacy' as a way of expanding its sphere of influence abroad, then we need perhaps to ask ourselves the question whether the European Union too in its relations with Ukraine is not practicing a form of 'immigration diplomacy' as a way of advancing the strategic interests of its member states in the eastern neighbourhood. Investments in border infrastructure in locations far beyond its current geographical and institutional expansion not only protect the Union from unwanted populations and merchandise, but also promise to yield important strategic and political dividends. The analysis presented in this chapter pays heed to Christopher Hill's warning that "the geopolitics of any new borders should not be relegated to the margins of discussions on migration" (Hill, 2002: 96).

CHAPTER IV

ENERGY SECURITY IN THE EASTERN NEIGHBOURHOOD: TRANSFORMING THE UKRAINIAN ENERGY SECTOR

Introduction

The Justice and Home Affairs-related activities conducted by the European Union in the Ukrainian-Russian borderland parallel its activity in another policy area, namely that of energy. Cooperation in the energy sector is a key element in the Union's relations with the countries covered by the European Neighbourhood Policy. Relations with the new eastern neighbours in particular are dominated by issues of security of energy supply and transit. Nowhere is this more the case than in Ukraine, a country located between the main oil and gas producing regions of Eurasia and their principal export markets in Western Europe. For a number of years now, the European Union has paid close attention to developments in the country's energy sector, and has tried to influence these developments through a mixture of instruments it has at its disposal.

This chapter takes a close look at the energy-related programmes and initiatives launched since 2000 by the EU and its member states in Ukraine. It argues that efforts to integrate the country in the common energy market have implications that go beyond the intention to help Ukraine reform an important sector of its economy. Specifically, attempts to gain knowledge and control over developments in the Ukrainian oil, gas and electricity sector lead to the thought that Brussels may be pursuing possession as well as milieu goals. In this context, the routing of new pipelines, the export of technical standards and industrial practices, and the integration of Ukraine into international bodies promoted by the EU are examined with a view to their effect on the country's external economic orientation and on the East-West energy trade in general. By showing how EU energy-related activities in Ukraine can have implications for the regional order in the eastern neighbourhood, this chapter demonstrates that the external dimension of EU energy policy is fraught with strategic significance.

The chapter draws on policy documents, public pronouncements by EU officials and publications in the specialised literature. It also uses material from twelve confidential interviews conducted by the author in Brussels and Kiev. Interview respondents included officials from DG Transport and Energy, the EC Delegation in Kiev, and the Ukrainian Mission to the EU. Experts from the European Bank for Reconstruction and Development, the Energy Charter Secretariat, the Union for the Coordination of Transmission of Electricity, and the European Committee for Electrotechnical Standardisation were also interviewed.

Section one outlines the evolution of Ukraine's energy sector since the break-up of the Soviet Union, highlighting the continuing interdependence in the matter of energy between Ukraine and its eastern neighbours. The chapter then investigates EU activities directed at the restructuring of Ukraine's physical, regulatory and institutional infrastructure with an eye to their impact on the country's energy ties with the East. The strategic and economic effects of EU activity in the energy field are presented in the final section of the chapter. The chapter focuses mainly on oil, gas and electricity. Coal and nuclear safety are not covered because EU activity in these sub-sectors has no noticeable impact on Ukraine's relationship with Russia.

The evolution of the Ukrainian energy sector since independence

Most of Ukraine's existing energy infrastructure was developed during the Soviet period, when it was managed and operated on a totally integrated basis without regard for borders or transit costs (Duffield, 2002: 119; Crane et al, 2005: 423). Intensive inter-republic energy exchanges were treated as an internal transfer of resources with little financial significance (Stern, 2005: 66). Industrial and commercial information, regulation and technology were shared among the constituent republics of the USSR, as were the revenues from energy exports to the West (Graiss and Zheng, 1996: 5). On independence, Ukraine inherited a vast gas, oil and electricity infrastructure measured in terms of pipeline and cable mileage, as well as storage and power generation capacity that was second only to Russia's.

The Ukrainian gas pipeline system comprises thirty-eight thousand kilometres of high-pressure trunk pipelines and a distribution network of

further 211 thousand kilometres. The system has an annual input capacity of 290 billion cubic meters of gas and an output capacity of 178.5 billion cubic meters. Gas is pumped through the pipelines by seventy-three compressor stations and its steady flow is maintained by thirteen underground storage facilities capable of holding up to thirty-four billion cubic meters of gas at any one time (Naftogaz Ukrainy, 2007). The network of storage tanks is organised around four underground complexes, i.e. West Ukrainian, Kiev, Donetsk and South Ukrainian, of which the West Ukrainian complex, located close to the border with Slovakia, is the largest and most important in terms of ensuring the uninterrupted flow of Russian gas to the EU (Stern, 1999: 159; Opitz and von Hirschhausen, 2001: 151).

Ukraine has an extensive oil pipeline network as well, with a total length of 4.7 thousand kilometres and an input and output capacity of 114 and 56 million tonnes per year respectively (Naftogaz Ukrainy, 2007). The network comprises the Druzhba and Pridniprovisky trunk pipelines, running west in the case of Druzhba, and south and east in the case of Pridneprovsky. Ukraine's oil transport system also includes a relatively new pipeline connecting the recently constructed marine terminal near Odessa to the southern leg of the Druzhba pipeline at Brody in western Ukraine. The entire network is serviced by twenty-eight pumping stations and storage reservoirs capable of holding volumes in excess of one million cubic meters of oil (Naftogaz Ukrainy, 2007; Saprykin, 2002: 104). There are six oil refineries in Ukraine, i.e. Kremenchug, Lysichansk, Odessa, Kherson, Dragobych and Nadvirna, the largest of which are located in the east and south of the country.

The total length of the Ukrainian electricity transmission network is approximately twenty-three thousand kilometres, in addition to further one million kilometres of overhead cable power distribution lines (Energy Strategy of Ukraine, 2006: 31). The network is organised in line with the country's administrative division into twenty-seven regional distributors or *oblenergos* who own the grid and distribution lines in each territorial region or *oblast*. The Ukrainian state exercises control over the network by holding shares in individual *oblenergos* and by directing the National Electricity Regulatory Commission which sets the transmission and distribution rates for each *oblenergo* (Dodonov, 2003: 260). The country has seventeen coal-fired

thermo-electric plants and eight hydroelectric power stations, the largest six of which are sited on the river Dnepr. Following the closure of the last Chernobyl reactor in 2000, Ukraine was left with four nuclear plants, i.e. Zaporizhya, Pivdenno-Ukrainska, Rivne and Khmelnytsky, responsible for over half of the country's electricity production (Energy Strategy of Ukraine, 2006: 44).

After a decade and a half of existence as an independent state, Ukraine's gas, oil and electricity sectors remain closely tied to the energy complex of the defunct USSR. These ties are evident at the level of physical and regulatory infrastructure, patterns of ownership and investment, and dependency on external sources of supply. The development of Ukraine's transit network has been very limited since Soviet times due to the prohibitive costs associated with acquiring new infrastructure. Among the few exceptions are the abovementioned Odessa-Brody oil complex constructed in the late 1990s and a seventy-six kilometre long segment of the Ananiev-Ismail pipeline in the south allowing for increased gas exports to Turkey and the Balkans (Naftogaz Ukrainy, 2007). Fixed infrastructural assets account for the fact that significant volumes of Russian gas in excess of eleven billion cubic meters per annum were until recently piped through the eastern sections of the Ukrainian high pressure grid to territories in southwest Russia until the construction in 2007 of a Gazprom pipeline diverting supplies away from the territory of Ukraine (*Korrespondent*, 9 October 2007). The electricity grids of the two countries remain synchronised as well, despite temporary disconnections in the immediate post-independence period and again briefly in the late 1990s (Moshes, 2001: 26). Reconnecting the grids in August 2001 has made possible bilateral exchanges in electricity, as well as joint exports to third countries such as Moldova (Fredholm, 2005: 22).

In addition to the complementary character of the physical infrastructure either side of the border, the Ukrainian energy sector has evolved in a way similar to that of other post-Soviet states, notably Russia. The sector is organised around several state-owned umbrella companies who through their subsidiaries manage and regulate the relevant infrastructure placed under their jurisdiction. Petroleum and natural gas, for example, fall under the jurisdiction of Naftogaz Ukrainy, a vertically integrated state-owned joint-stock company established in 1998 to coordinate the transportation and

extraction of hydrocarbons on Ukrainian territory, while atomic energy is placed in the hands of the similarly organised Energoatom. In 2004, the Kuchma administration set up Enerhetichna Kompania Ukrainy and placed the production, transmission, and distribution of electricity under its control. The company was summarily dissolved by Kuchma's successor, Victor Yushchenko, a year after its creation. There have also been plans for the creation of a business structure charged with overseeing the coal industry (Balmaceda, 2004a: 31).

Much like Gazprom and United Energy Systems (RAO-UES) in Russia, these companies operate as government agencies, combining business and regulatory functions (Fredholm, 2004: 18). In addition to acting like near monopolies in the sale of fuels on the domestic and international markets, these enterprises have important licensing and price-setting powers, which, as government agencies, they exercise in pursuit of broader social, economic and political objectives. One upshot of this arrangement prevalent among the successor states of the USSR is that private households, public institutions and communal heating enterprises enjoy lower utility prices per unit of energy than industrial consumers (Dodonov, 2003: 260).

The structure of ownership and investment in the Ukrainian energy sector is also indicative of the country's extensive ties with the East. Ukraine's oil and gas pipeline network is owned and operated by the aforementioned Naftogaz Ukrainy whose assets are prohibited from being privatised by successive acts of the Ukrainian parliament. And yet investors from other parts of the former Soviet Union have nevertheless participated in the development and exploitation of the company-controlled physical infrastructure which comprises pipelines, terminals and storage facilities. The prohibition, for example, has not prevented Gazprom from holding shares in Naftogaz Ukrainy or from attempting to exercise joint management of the infrastructure placed under its control. In 2002, following a declaration by the presidents of Ukraine and Russia on strategic cooperation in the natural gas sector, an 'International Consortium for the Management and Development of the Ukrainian Gas Transit System' was established with a view to creating a safe environment for the transit of Russian gas through Ukrainian territory. The initiative foresaw the implementation of a number of measures by Ukraine

and Russia, including the harmonisation of their export and transit policies (von Hirschhausen et al, 2005: 51-52).

It is in the downstream energy market, however, that Russian investment has been most prominent. Russian and Central Asian energy companies are heavily invested in the Ukrainian distribution market by virtue of their acquisition of a number of gas distribution companies following their privatisation in the early years of this decade. Companies like Gazprom also hold shares in the Druzhovsky gas equipment manufacturing plant and the Yuzhniigiprogaz energy research institute (Loskot-Strachota, 2006: 11). In addition, many of Ukraine's petrochemical plants have been acquired by investors from Russia and all but two of its oil refineries are owned and operated by Russian oil companies such as Lukoil and, until recently, Tatneft (Crane et al, 2005: 415).

Russian business presence is strongly felt in the electricity sector as well. Since 2000, nearly all regional distributors or *oblenergos* have been partly or wholly privatised. In many cases controlling shares have passed to foreign investors, pre-eminent among them, Russia's federal grid operator, United Energy Systems, and the Moscow-based Luzhniki Group. A new privatisation drive was launched by the Ukrainian parliament in the autumn of 2006 with the planned sale of majority shares in twelve *oblenergos* alongside other industrial assets presently owned by the state. The proposal was blocked by President Yushchenko on the grounds that several of its provisions ran counter to the Ukrainian constitution (*Korrespondent*, 28 December 2006). At the time of writing of this chapter, the privatisation of the remaining *oblenergos* awaits the outcome of the standoff between the president and the parliamentary majority in the Verhovna Rada.

In terms of supply, Ukraine has until very recently relied exclusively on Russian and Turkmen energy deliveries. Domestic oil and gas extraction in Ukraine is relatively small and unable to meet the country's needs, while coal production, albeit significant, is unprofitable and in long-term decline (Energy Strategy of Ukraine, 2006: 54; Dodonov, 2003: 264). For this reason, Kiev has had to rely on energy supplies from abroad which, due to infrastructural and other constraints, have tended to come from former Soviet republics, particularly Russia. In 2006, Ukraine imported for domestic consumption

approximately twelve million tonnes of oil and just under seventy billion cubic meters of Russian and Turkmen gas (Naftogaz Ukrainy, 2007). The latter is particularly important given that natural gas accounts for forty percent of Ukraine's primary energy consumption (Energy Strategy of Ukraine, 2006: 8). These import figures, which after a steep fall in the immediate post-independence period have since remained roughly the same, betray the fact that sixteen years on the country continues to be overwhelmingly reliant on energy resources flowing through traditional channels that lead back to its Soviet past. Nor is this reliance limited to hydrocarbons alone. Prior to the launch of a joint project with the American nuclear fuel manufacturer Westinghouse in the summer of 2005 (*Korrespondent*, 30 January 2008), Ukraine's nuclear power plants depended exclusively on Russian uranium imports and on storage and processing of spent fuel in Russia. The latter also provides most of the plants' equipment (Electric Power Council, 2007; Balmaceda, 2004a: 8). Periodic shortfalls in electricity are also made up for in imports from the Russian Federation which, in addition, provides the lion's share of the country's imported coal (Energy Strategy of Ukraine, 2006: 54).

The terms and conditions of the energy trade between Ukraine and its eastern neighbours also bear a distinctive post-Soviet mark. Since independence the country has enjoyed deliveries of, mainly, petroleum and natural gas at prices significantly below those paid by consumers in the former CMEA countries of Eastern Europe or indeed by the West. Until January 2006, for example, the price of one thousand cubic meters of natural gas delivered to Ukraine fluctuated around \$50, while countries west of Kiev were charged four times as much. Even after the price of gas for Ukraine was doubled at the beginning of 2006, it has since remained significantly below the going international rate. The implicit subsidisation of the Ukrainian economy by Russian and Turkmen suppliers has been justified above all on humanitarian grounds in view of the social and economic situation prevailing in the country. Subsidies have also been allowed because Ukraine, until recently, had committed itself to closer economic and political integration within the framework of the Commonwealth of Independent States.

Despite the import of energy at reduced prices, Kiev has often been unable or indeed unwilling to meet its commercial obligations towards Russian

and Turkmen suppliers. This has resulted in some unique for the post-Soviet region pricing arrangements whereby the continued delivery of supplies has depended on various forms of barter and exchange, as well as other non-monetary settlements such as loan-for-equities swaps, tax exemptions and, on several occasions, outright debt cancellation. Energy transactions have also featured in package deals on nuclear weapons and the division of the Black Sea fleet (Stern, 1999: 159).

Such stop-gap measures, however, have not prevented the periodic occurrence of energy crises between Ukraine and the supplier states. The latter have on occasion been unable to secure any form of payment for deliveries of natural gas in particular. In such situations Russia and Turkmenistan have normally cut off supplies, for a few days in the case of Russia, and for much longer periods in the case of Turkmenistan. This has forced the authorities in Kiev to resort to unauthorised diversions of gas from the transit pipelines on Ukrainian territory. The most recent such crisis sparked off by a price dispute between Gazprom and Naftogaz Ukrainy occurred in early January 2006 during which supplies to European consumers were disrupted for several days. While it has been difficult to establish exactly what the facts were and who was to blame, the events of January 2006 almost certainly involved the diversion of substantial amounts of natural gas by the Ukrainian authorities (Stern, 2006; for an alternative account pointing the finger of blame at the Kremlin see Judy Dempsey's articles in the *New York Times*). Illegal siphoning off of gas has also allegedly occurred on a more regular basis in conditions where industrial consumers are directly connected to the transit pipelines and where an adequate metering system is lacking (Dodonov, 2003: 268; Opitz and von Hirschhausen, 2001: 151). Occasional crises have affected the electricity sector as well, resulting in the temporary disconnection of the Ukrainian and Russian electricity grids during a serious dispute over non-payment in the winter of 1999 (Moshes, 2001: 26).

In this crisis-prone environment there has been an urgent need for private intermediaries to facilitate the energy trade between the former Soviet republics. In view of the perennial insolvency of clients in the Ukrainian market and the heavily-politicised hydrocarbons trade with Russia, companies such as Gazprom have often relied on the services of middlemen to broker deals

and/or handle sales to awkward customers. In the past such services were provided by firms like Itera which, between 1998 and 2001, acted as an intermediary in the sale of Russian and Turkmen gas to Ukraine (Balmaceda, 2004c: 42; Adams, 2002: 17). Other facilitators have included EuralTransGas, which succeeded Itera in handling energy deliveries to Ukraine, and TurkmenRosGas - another link in the chain of gas importers from Turkmenistan (Fredholm, 2005: 20). Their line of business consisted in matching price expectations with ability to pay, and pursuing debtors in a way that national monopolies such as Gazprom have been reluctant to do for political reasons (Stern, 1999: 161; Adams, 2002: 16). The role of intermediary between 2005 and 2008 was fulfilled by RosUkrEnergo, a Swiss-registered trading company jointly owned by Gasprombank and the Ukrainian businessmen Dmytro Firtash and Ivan Fursin, whose mediation was instrumental in reaching the compromise that settled the January 2006 'price war' between Kiev and Moscow.

To summarise, in 1991 Ukraine inherited a sizeable energy infrastructure inextricably tied with that of other former Soviet republics, notably Russia. The post-independence period has seen the continuation of these structural ties and their consolidation through trade and investment flows. The Ukrainian energy sector has thus evolved into a hybrid, exhibiting features of both national and post-Soviet governance evidenced by a unique set of trading practices and commercial arrangements. The influence of political and other non-commercial considerations on the setting of prices; the intricate payment schemes; the propensity for crises and their complex resolution through private intermediaries resulting in further ambiguity all point to the existence of a fragile status quo maintained by delicate balances and unsatisfactory compromises characteristic of the Ukrainian polity as a whole. It is in this complex environment that the European Union has stepped in with a range of programmes and initiatives designed to advance the strategic interests of its member states. This is what the chapter will turn to next.

EU Involvement in the Ukrainian Energy Sector

Ukraine occupies an important place in the East-West energy trade and in EU strategic thinking. With a pipeline infrastructure and storage capacity second only to Russia's, Ukraine is considered "a key strategic country for the transit of Russian oil and gas to the EU" (*European Commission*, 2004: 22). At the same time, "[its] economic weakness and energy dependency, as well as historic and cultural factors," are understood to "expose the country to Russian economic and political influence" (*European Commission*, 2001: 4). The fact that Ukraine lies within an important transit region for hydrocarbon supplies, and that the latter leave it open to pressure from Moscow, has prompted the European Commission to call for "continued strong EU engagement in order to [...] strengthen the country's independence and European links" (*European Commission*, 2001: 14). This engagement has translated into a variety of initiatives designed to advance the collective commercial interests of the EU member states as importers of energy. Their aim has been to reorganise, as far as possible, Ukraine's energy sector away from its post-Soviet model of development and simultaneously fold it with the physical, regulatory and institutional networks centred on the EU.

Infrastructure Interconnection

A major part of EU activity in the eastern neighbourhood consists in developing and implementing blueprints for infrastructure interconnection with the neighbours. In Ukraine this activity finds expression in the support and encouragement of projects that aim to restructure Ukraine's energy network in ways that contribute to the establishment of physical connections between Brussels and Kiev. The Odessa-Brody pipeline is a case in point here.

The construction of the pipeline and its servicing marine terminal began in 1996 and was completed in 2001 to the cost of hundreds of million of dollars to the Ukrainian taxpayer. Its original purpose was to carry oil from the Caspian region, and particularly from Azerbaijan and eventually Kazakhstan, in order to lessen Ukraine's reliance on Russia. Developments in the Caspian, however, thwarted the Ukrainian planners' intentions. The launch of the Baku-

Ceyan oil pipeline through Georgia left little Azeri oil to be shipped to Odessa, and the perpetual delay of the Trans-Caspian interconnector linking Kazakhstan to the energy infrastructure of Azerbaijan meant that the loss of supplies could not be substituted with Central Asian crude. In the light of these developments, all the planning assumptions upon which the project had been based were discovered to have been flawed, and upon completion the pipeline remained idle for several years.

Against this backdrop of strategic miscalculation and bad planning, the Ukrainian government headed at the time by Victor Yanukovich took the decision in the spring of 2003 to allow the Russo-British joint venture TNK-BP to operate the pipeline in reverse mode by pumping crude from the southern leg of the Druzhba pipeline down to Odessa for shipment by tanker to international markets. The decision, announced as temporary, amounted to an abnegation of the principles underpinning the project, namely, to lessen the country's reliance on oil delivered via Russian infrastructure. Opponents of the government accused it of short-termism and of compromising Ukraine's energy security. The decision to reverse the Odessa-Brody pipeline also provoked a strong reaction from the West. In an article appropriately titled 'An equivocal reverse', published in the prestigious Ukrainian daily newspaper *Den* on 3 April 2003, the American, German and Polish ambassadors in Kiev unequivocally warned the authorities that a reversal of the pipeline would be interpreted in the chancelleries of the West as a reorientation of Ukraine's foreign policy away from Euro-Atlantic structures and back to Moscow (*Den*, 3 April 2003). While the stance taken by the US and Polish envoys was hardly surprising, the position of Ambassador Stüdemann of Germany, speaking equally on behalf of the European Union, signified a strong interest from West European governments in the operation of the pipeline in the original direction.

The announcement in April 2003 by the Yanukovich government of the temporary exploitation of Odessa-Brody by TNK-BP was immediately followed by a flurry of foreign policy activism on the part of the EU in an attempt to dissuade the authorities in Kiev from continuing to use the pipeline in a north-south direction. In May 2003, Brussels, Warsaw and Kiev signed a joint declaration on "Support of the Euro-Asian Oil Transport Corridor Project" establishing a trilateral EU-Poland-Ukraine joint expert working group to study

the possible extension of the pipeline in the direction of Plock in Poland. The initiative was financed by the European Commission which provided two million euro towards a feasibility study (EC Delegation in Kiev, 2005a). This, in the words of one Commission official, 'indirect promotion' of the south-north route (Interview, 9 November 2005) became more overt when later that year the extension of the pipeline to Plock was given a priority status in the Commission Communication on the Development of Energy Policy for the Enlarged European Union, its Neighbours and Partner Countries (*European Commission*, 2003a: 28). Since then, the Odessa-Brody-Plock project has featured regularly in all the main documents on EU-Ukraine relations, including the 2005 Neighbourhood Action Plan and the Memorandum of Understanding on cooperation in the energy field agreed between Brussels and Kiev at the end of 2005.

In March 2005, the European Commission signed a contract with a consortium of companies comprising SWECO PIC of Finland, ILF GmbH of Germany, and KANTOR of Greece for preparing the economic and technical foundations of the planned extension to Plock and eventually to the Baltic port of Gdansk (EC Delegation in Kiev, 2005b; Korrespondent, 9 August 2005). The signing later that year of a framework agreement between the European Investment Bank (EIB) and the government of Ukraine has opened the possibility of EIB funding for the extension project (EIB, 2005). The project was also included in the Baku Initiative signed in 2004 in the Azeri capital, bringing together the EU and a number of Caspian and Central Asian states (with Russia as an observer) in a common framework to diversify energy supplies by source and transport route. Odessa-Brody has more recently been included in the Black Sea Regional cooperation strategy aiming at the progressive integration of the energy and transport markets of the Black Sea littoral states into that of the EU (European Commission, 2006e). The ten-point addendum released by the EU institutions after the Orange Revolution states that "Ukraine will be treated as a priority country in the ongoing preparations for the extension of Trans-European Networks" which include Odessa-Brody as a project of strategic significance for the Union (European Council, 2005).

So far the reversal of the Odessa-Brody oil pipeline and its extension to Plock has remained an elusive goal. The huge capital investment required for completion of the section between Brody and Plock, and the geopolitical risks associated with transit through the Caucasus highlighted by recent events in Georgia, have conspired to undermine the economic viability of the project in the eyes of potential investors. In the beginning of 2007, the Ukrainian government extended the use of the pipeline by the Russo-British joint venture until 2009 at least (Korrespondent, 16 March 2007). Despite the limited results achieved so far, the effort put in by the European Union to ensure the flow of crude oil through the pipeline in the direction it desires has been real and, when the right conditions arise, may well bear fruit. If nothing else, Brussels can count on the unwavering political commitment of the current Ukrainian leadership to put the pipeline back to its original purpose. While the restructuring of parts of the Ukrainian oil complex in line with EU interests and priorities remains elusive, cooperation in the electricity sector has produced more tangible results.

The partial reorganisation of Ukraine's oil infrastructure and its inclusion in trans-European energy networks has been accompanied by attempts to integrate the country's electricity system into that of the European Union. Presently there are two synchronised (i.e. one frequency) electricity networks in mainland Europe roughly corresponding to the institutional division of the continent into two regional integration projects centred on the European Union and the Commonwealth of Independent States. For some years now experts have studied the feasibility of establishing an interface between the extended western synchronous system, the Union for the Coordination of Transmission of Electricity (UCTE), representing transmission system operators active in mainland Western Europe and the new EU member states, on the one hand, and the Unified Power System (UPS) of the Russian Federation and the Interconnected Power Systems (IPS) of Ukraine, Belarus, Moldova and the other former Soviet republics, including the Baltic states, on the other (UCTE, 2007; Luther, 2006).

The two synchronised networks have developed independently of each other in terms of technical and safety standards, organisational procedures and legal and regulatory norms. Because they have been operating

independently over a considerable length of time, their incompatibility is defined in terms not only of their technical performance, but also of the way they are organised and managed (Luther, 2006: 3). Diverging norms and standards have so far defied attempts at establishing an interface between UCTE and IPS/UPS, resulting in a situation where the two networks are presently connected only to a minor extent via a single direct line between Finland and Russia and a similar cable link between Finland and Estonia (*European Commission*, 2003a: 19; *European Commission*, 2006a: 6).

These technical challenges notwithstanding, the European Union is committed to integrating Ukraine, which is part of IPS/UPS, into the extended western network operated by UCTE. The EU-Ukraine Neighbourhood Action Plan signed in 2005 provides for a feasibility analysis of the establishment of an electricity interconnection between the Ukrainian power system and the UCTE network (*European Commission*, 2005: 23). Likewise, the Memorandum of Understanding on cooperation in the field of energy between the EU and Ukraine signed later that year cites as an objective the synchronous connection of Ukraine to the UCTE network with a view to its 'progressive integration' in the European electricity grid (Memorandum, 2005: 7). System integration is quite different from the envisaged interconnection between UCTE and IPS/UPS as it implies the full implementation of UCTE standards by Ukraine, which can only come at the expense of the latter network (Interview, 11 May 2007).

The process of synchronising and integrating Ukraine's electricity grid with the interconnected power systems of the EU member states has in fact already begun. In July 2002, a project involving the modernisation and expansion of the Burshtyn thermoelectric power plant in western Ukraine was jointly launched by CENTREL, a regional group within UCTE representing transmission system operators from the Visegrad countries, and the Ukrainian national electricity company, Ukrenergo. The aim of the project was to synchronise the Burshtyn plant and its associated infrastructure with the UCTE power system to enable electricity exports to Poland, Slovakia and Hungary. The plant was thus brought in line with UCTE's technical requirements and procedures at the same time as the hardwired connections linking it to three electricity substations on Ukrainian territory were dismantled.

This resulted in the creation of the so-called 'Burshtyn Island', a region of about twenty-seven thousand square kilometres bordering on all of Ukraine's western neighbours. The Island, spanning parts of Zakarpattia, Lviv and Ivano-Frankivsk *oblasts* and inhabited by nearly three million people, was physically disconnected from the CIS electricity network (Newsgrid, 2003: 3).

Following a successful one-year trial run, the Burshtyn Island was incorporated into the accounting and control system of CENTREL, after which it was permanently cut off not only from the IPS/UPS synchronised network but from the rest of the Ukrainian power grid as well (CENTREL, 2003: 13). The 'island solution' was apparently favoured over an alternative arrangement envisaging the connection of the UCTE and IPS/UPS grids via a direct-current linkage thereby avoiding the disconnection of the Burshtyn plant and its infrastructure from the rest of the Ukrainian power system (Möllers et al, 2001: 146). This choice between synchronous and non-synchronous connections was, according to the European Commission, essentially predetermined by the incompatibility of technical standards, such as grid codes, accounting systems and procedures for information exchange, between the western and the eastern synchronised electricity grids (European Commission, 2003a: 20).

The lack of interoperability between the two systems is likely to condition the establishment of further interconnections between UCTE and the Ukrainian power grid envisaged in the roadmap for integration of electricity and gas markets contained in the EU-Ukraine Energy Memorandum. In the view of one expert, it is theoretically possible to integrate both Ukraine and Russia into the extended continental European electricity system so as to avoid further disconnections, but because it involves the adoption of industrial standards, such integration would be technically difficult if not impossible (Interview, 5 October 2006). Despite this, Brussels and Kiev are determined to go ahead with the planned network integration. On 4 May 2006, the UCTE General Assembly approved Ukraine and Moldova's applications to join the network, and established a special technical committee to oversee its implementation. According to Ukraine's First Deputy Fuel and Energy Minister, Yuriy Prodan, Ukraine expects to accede to UCTE by 2010 (Ministry of Fuel and Energy, 2006).

The reorganisation of Ukraine's physical infrastructure goes hand in hand with the establishment of a system for surveillance and control of energy flowing through Ukrainian territory. The idea of devising a 'permanent monitoring instrument' to observe energy flows in the eastern neighbourhood was first explored in a 2003 communication from the European Commission on the development of energy policy for the enlarged EU, its neighbours and partner countries. In this document the Commission expressed a wish "to see greater use of precise mapping techniques and monitoring programmes for hydrocarbon networks" and the surveillance of energy shipments in general. In this context, the Galileo satellite navigation programme was judged to offer significant opportunities relating to "the maintenance and construction of oil and gas pipelines, high tension electricity cables, the monitoring of oil tankers and the [overall] management of natural resources" (*European Commission*, 2003a: 24). Importantly, the participation and close collaboration of neighbouring countries in the development of the project was deemed necessary, as was the establishment of a European Energy Supply Observatory to act as a focal point for the collection and exchange of information and analysis of energy intelligence across Europe.

The idea of a European Observatory for oil and gas was taken up in the 2006 Commission Green Paper for Sustainable, Competitive and Secure Energy, and again in the 2007 Commission Communication on Energy Policy for Europe. Its establishment was linked to the creation of a network of energy security correspondents "to provide an early warning system and enhance the EU's capability to react in times of external energy security pressure" (*European Commission*, 2006d: 8; 2007: 17). The proposed network would bring together energy experts from the EU institutions and the member states who, together with contact points in neighbouring countries, would meet on an ad hoc basis and operate through a purpose-built communication system (*European Commission*, 2006a: 6; Interview, 2 May 2007). Not unlike police and intelligence liaison officers in the area of illegal immigration and cross-border crime, the energy security correspondents would monitor the situation in and around the EU and identify potential risks to electricity and hydrocarbon

supplies. The reports, analyses and action plans they produce would complement the work of the European Observatory for oil and gas and would contribute to the establishment of a European Centre for Energy Networks with powers to define and implement common security standards for networked energy (Solana, 2006: 3; *European Commission*, 2006c: 8).

Ukraine occupies an important place in the EU strategy to render energy flows transparent, and steps have already been taken in the direction of turning the Ukrainian oil and gas network into an observable space for EU energy security personnel. On 21 December 2006, the energy Commissioner, Andris Piebalgs, together with the Deputy Prime Minister of Ukraine, Andrei Kliuev, inaugurated the Natural Gas Metrology Centre in the town of Boyarka, Kiev *oblast* (*European Commission*, 2006f). The centre coordinates the measurement of gas flows in all segments of Ukraine's transport and distribution network, from the trunk pipelines to the end user (Naftogaz Ukrainy, 2006). It also provides calibration and verification of the quality of gas pumped through the network. The project was jointly financed by Naftogaz Ukrainy and the European Commission which contributed close to eight million euro of TACIS money towards the procurement of Belgian- and Dutch-made measuring equipment, including density, temperature and humidity meters, as well as instruments for their calibration. Contractors were the Belgian firm Instromet and the Dutch company Tek Know, which provided the equipment, while the National Metrological Institute of the Netherlands carried out the certification and validation of the centre. EU financing was conducted within the framework of the Interstate Oil and Gas Transport to Europe programme, under whose legal auspices the Centre operates (INOGATE, 2006).

The Boyarka Metrological Centre represents the first stage in the establishment of a comprehensive system for monitoring of energy traffic in the region. It is envisaged that the centre will become an instrument for gas flow measurement in the whole of the eastern neighbourhood. A stated intention is that the project will lead to improved metering, especially cross-border metering, not only in Ukraine but in Belarus and Moldova as well, and that ultimately it will introduce greater transparency of Russian and Central Asian gas supplies to the European Union (*European Commission*, 2006f).

Nor is gas the only commodity to be tracked and rendered visible through complex networks of metering stations. There are plans for the expansion of the centre to provide quantity and quality measurements of crude oil, oil products and liquefied natural gas (Naftogaz Ukrainy, 2006). The 2005 EU-Ukraine energy memorandum takes the concept of metering further, by contemplating the use of satellite technology for monitoring of energy transit and supply networks on Ukrainian territory. This is a reference to the Galileo programme which the Commission is eagerly promoting, and with which Ukraine has concluded an agreement (Memorandum, 2005: 8).

Standardisation/Legislative Approximation

The integration of Ukraine's physical infrastructure into the energy networks of the European Union and the surveillance of energy flowing through that infrastructure is predicated upon the adoption by the country of EU legal and technical rules of network operation. The export of norms and standards to the countries of the Wider Europe is justified by the need to create a common market with the neighbours and to ensure free access to this market by progressively removing all obstacles to trade, whether they be of a legal or technical nature. In its Communication on the Development of Energy Policy for the Enlarged European Union, its Neighbours and Partner Countries, the European Commission considers that:

Market access is an important concept underlying the internal electricity and gas market and thus the creation of a level playing field. Equal market access can only occur if all markets are open to fair competition to an equivalent extent. This does not necessarily require that all participants adopt identical rules in every respect. [...] Notwithstanding this, wherever possible, standardised or common rules should be adopted, as this will increase the efficient functioning of the resulting wider internal market (European Commission, 2003a: 14).

The adoption of EU standards in the energy sector has been an important element of EU involvement with Ukraine. The Neighbourhood Action Plan signed between Brussels and Kiev in February 2005 stipulates that the latter should "harmonise the necessary framework and sectoral legislation with the EU technical regulations in the priority sectors" such as energy. The

document also states that Ukraine should revise on a continuous basis its existing regulatory base in line with European and international standards of application, and that it should reinforce its institutional capacity on standardisation, accreditation, conformity assessment, metrology and market surveillance by integrating its institutions into European and international structures (European Commission, 2005: 18).

To facilitate this transition to an EU form of governance, the European Commission launched a Twinning project in the spring of 2006. The project, titled "Strengthening of Standardisation, Market Surveillance, Metrology and Legal Metrology, Conformity Assessment and Consumers Policy in Ukraine", aims to enhance the country's ability to import and export goods to and from the EU by reducing the need for re-testing, re-inspection or re-certification. This involves, *inter alia*, the reorganisation of Ukraine's inspection and accreditation agencies away from the 'Gosstandart model' used throughout the former Soviet Union (bar the Baltic states) and towards an organisational format suggested by the Twinning partner from the EU (EuropeAid, 2006: 3). The expected changes induced by the project will of course affect not only energy and energy-related products, but all products subject to standardisation and conformity assessment.

Ukraine's adoption of EU technical specifications in the energy field has also been taking place since the year 2000 through its affiliation with one of the EU's standardisation committees. The European Committee for Electrotechnical Standardisation (CENELEC) is an association of thirty national electrotechnical agencies in Europe whose task is to prepare standards for the Single European Market / European Economic Area in the fields of electricity, electronics and associated technologies. Its remit includes cables, wires, electrical networks, and power generation equipment, as well as all products, systems and services powered by electricity. CENELEC brings together experts who meet in working committees and devise standards which become European standards (CENELEC, 2007). Once a European Standard has been agreed on in one of its working groups it is transposed into a national standard. This process is therefore instrumental in removing non-tariff barriers to free trade and integration.

In addition to its thirty member national standardisation committees, CENELEC has eight non-EU affiliates representing countries in and around Europe. The only country from the CIS region affiliated to CENELEC is Ukraine, who since December 2000 has participated in numerous working groups within the framework of the committee. While affiliates have no voting rights, they are nevertheless obliged to implement the European standards set in the working groups which they attend, and have to withdraw all conflicting national standards (CENELEC, 2006). Despite being a full member of the Euro-Asian Interstate Council for Standardisation, Metrology and Certification, i.e. CENELEC's counterpart in the CIS, Ukraine in recent years has actively participated in European Electrotechnical Standardisation Committee working groups (Interview, 2 May 2007). Its attendance in these working committees can only mean that Kiev has been withdrawing the technical standards it shares with its CIS partners and replacing them with European ones that provide its products with a passport to the EU market. According to one EU official, the European Commission looks favourably on affiliations with CENELEC which it sees as an instrument for enlarging the single market (Interview, 3 May 2007).

Institutional Creationism

Another instrument for influencing developments in its vicinity, involves the establishment by the EU of regional organisations with an energy focus and the inclusion therein of neighbouring states. In order to advance the energy security interests of its member states, the European Union has promoted the creation of institutions whose purpose has been to extend its regulatory base beyond the Union's geographical confines. An example of that would be the Energy Charter Treaty negotiated in the 1990s and envisaged as a mechanism for regulating the east-west trade in hydrocarbons (Interview, 9 November 2005). The treaty commits its signatories to reform of their energy sectors in the direction of liberalisation and compatibility with EU and WTO norms and standards. The Charter regulates energy exchanges in the wider European region and beyond, and binds all contracting parties to the

application of EU-compatible legislation relating to trade and investment in the hydrocarbons sector (Energy Charter Treaty, 1998).

Another, more recent, example of the institutional creationism practiced by the EU is provided by the establishment of the Energy Community and the inclusion therein of Ukraine as an observer. Negotiated by the European Commission on the basis of a Council of Ministers decision of 17 May 2004 and finalised by the Council two years later, the Treaty establishing the Energy Community (ECT) seeks to gradually bring the countries of South-East Europe and beyond into the integrated EU market in natural gas and electricity (*European Council*, 2006). Signed in Athens on 25 October 2005 for a renewable ten-year period (ECT Article 97), the Treaty establishes a Ministerial Council with decision-making powers to provide general policy guidelines and ensure the attainment of the objectives set out in the treaty (Articles 47). The agreement also provides for a Permanent High Level Group to prepare the work of the Ministerial Council (Articles 53); a Regulatory Board seated in Athens responsible for advising the aforementioned bodies and for issuing recommendations on cross-border disputes (Article 58); separate Electricity and Gas Forums bringing together representatives of interested stakeholders to advise the other ECT institutions (Article 63); and a Vienna-based Secretariat providing administrative support and review of the proper implementation of measures in the geographic area covered by the treaty (Article 67). These measures may take the form of legally binding decisions, as well as recommendations that have no legal force but that the contracting parties should closely adhere to anyway (Article 76).

The professed aim of the treaty is "the creation of an area without internal frontiers for gas and electricity" (ECT Preamble, 3). Conceived by the Energy Commissioner, Andris Piebalgs, as a way of binding neighbouring states to the European Union (Piebalgs, 2006), the treaty lays the foundations of a common energy market governed by a set of rules based on EU norms and standards. Consciously modelled on the European Coal and Steel Community, the ECT seeks to create a "single regulatory space" in and around Europe (Article 2c) for trade in energy commodities, specifically electricity and gas, constructed according to a timetable for implementation of the relevant EC legislation by each contracting party within one year of the

entry into force of the treaty (ECT Annex I). This means above all Directives 2003/54/EC and 2003/55/EC laying down common rules for the internal electricity and gas markets and Regulation 1228/2003/EC on cross-border electricity exchanges (Article 11). It also entails the adoption of EC environmental legislation, including the Kyoto Protocol (Article 16), and the acceptance of strict rules on market interaction compatible with EC competition law (Article 18).

The Energy Community thus serves as an institutional vehicle for the extension of the entire *acquis communautaire* on energy, environment, competition and renewables to neighbouring states with direct physical links to the EU electricity and gas grids (*European Commission*, 2006c). It also performs an important security of supply function, demonstrated by the planned development of connections to Middle East, North African and Caspian gas reserves (Article 2c) and the inclusion in the treaty of mutual assistance obligations in the event of an external disruption (Article 46). The security of supply function also finds expression in the requirement that each participating state provide up-to-date information on the diversification of its energy portfolio, including the geographic origin of imported fuels (Article 29). The treaty may lead eventually to a common external energy trade policy based on a shared approach to energy imports from third countries (Articles 3c and 43).

While representing a regional cluster of states united around an area of common concern, the Energy Community is constrained in its capacity for autonomous action by the organisation's strong institutional ties with the European Union. Its multilateral framework notwithstanding, the ECT is not an independent entity in the full sense of the word, despite pronouncements to the contrary (see *European Council*, 2006: 16). For a start, the European Commission acts as coordinator of its main activities (Article 4) and enjoys the exclusive right to initiate legislative proposals that extend parts of the *acquis* to the adhering states of South-East Europe and beyond (Article 79). Commission representatives also act as vice presidents of the main institutions established by the treaty, i.e. the Ministerial Council, the Permanent High Level Group and the Regulatory Board, thus allowing the Commission to exercise agenda-setting powers (*European Council*, 2006: 16;

ECT Article 61). Furthermore, the European Union as a whole is also represented by the Council Presidency, whose delegates hold seats on the abovementioned institutions alongside representatives of the Commission and individual EU member states. Their task is to ensure that decisions taken by the ECT do not go beyond, or conflict with, the *acquis communautaire* (European Council, 2006: 17). EU officials play a leading role in the advisory bodies as well, by chairing the meetings of the Electricity and Gas Forums, for example (Article 64).

Yet it is not only at the level of formal decision-making structures that EU leadership takes its effect. The Union's authoritative position in the Energy Community stems from the latter's role in broadening the geographic scope of the EC legislative and regulatory base to countries with direct physical links to the internal energy market. As with the extension of the *acquis* on energy, environment, competition and renewables, the treaty's executive institutions oversee the aligning of the adhering states' national energy sectors with the Generally Applicable Standards of the European Community. These refer to the technical network system standards issued by specialised EU standardisation committees and applied throughout the territory of the Union (Articles 21-23). In so doing, the institutions must interpret any EC-related term or concept used in the treaty in conformity with the case law of the European Court of Justice (Article 94). This implies that any potential dispute over the meaning of the treaty's text is tantamount to being justiciable in Luxembourg. The unidirectional export of EU technical and regulatory standards together with the *de facto* extraterritorial application and adjudication of EC law, casts doubt over the Energy Community's multilateral credentials. An examination of the treaty's financial statutes reveals the contribution of the European Community to be as much as 95 per cent of the ECT budget (Annex IV), thus further undermining the organisation's purported independence.

The treaty's geographical remit is not confined to South-East Europe and its further expansion is possible and likely. At the Ministerial Council meeting of 16 November 2006 in Skopje, Ukraine, together with Georgia, Moldova, Norway and Turkey, was admitted to the Energy Community as an observer. Although its precise terms are still at the drafting stage, being an

observer confers upon Ukraine the right to attend the meetings of all the ECT institutions without participating in the discussions (Article 96). Ukraine's observership is seen as the first step in the direction of joining the Energy Community amid assurances from Commissioner Piebalgs, EU foreign policy chief, Javier Solana, and the German Foreign Minister, Frank-Walter Steinmeier, that eventual membership is on offer (*European Commission*, 2006c; Solana, 2006: 4; Steinmeier, 2006). Its attainment signifies the country's commitment to implement the principles of the ECT by aligning its legislation with the relevant parts of the *acquis* within the timeframe specified in the treaty and in accordance with the road map laid out in the EU-Ukraine memorandum of understanding on energy (Memorandum, 2005: 6).

Negotiations on Ukraine's accession to the Energy Community began in November 2008 (Interview, 27 November 2008). When full membership becomes a reality, it would signify the extension of an important part of the single market to Ukraine without however conferring any of the usual benefits normally enjoyed by its full participants. In fact, the treaty stipulates that the creation of an area without internal frontiers for energy does not in any way entail the free movement of people or the protection of the rights and interests of employed persons (Article 42). Such a piecemeal approach to integration is perfectly in keeping with the neighbourhood strategy unveiled by the Commission in March 2003 according to which the countries surrounding the EU will be offered the prospect of a stake in the internal market but not in its institutions or policies (*European Commission*, 2003b). Ukraine's eventual accession to the organisation would be another step in the country's sectoral integration with the west which, however, carries important implications for its ties with the east.

Strategic Implications

In assessing the strategic effects of EU activity in the eastern neighbourhood it is important to keep in mind that energy is an important element in Ukraine's relationship with Russia, and that any involvement of an external actor in the country's energy sector is bound to have repercussions on that relationship.

For a start, extending the Odessa-Brody pipeline to Poland and putting it back into 'original' use for transporting Caspian oil (as and when it becomes available) from the marine terminal at Odessa to Plock and then possibly to the port of Gdansk on the Baltic Sea, would mean terminating the contract of its current operator, Skilton Ltd., an affiliate of TNK-BP. Aside from the financial losses that would be borne by the company, the wider significance of such a move would be that Ukrainian infrastructure is being used to outmanoeuvre Russia by opening a major new corridor for oil supplies to the EU outside of Moscow's control. Operating the pipeline in such a mode would naturally weaken economic ties between the two countries and would prevent Moscow from exporting greater quantities of oil to international markets. This is because the Odessa-Brody route will essentially compete with the transportation of Russian oil through the Druzhba pipeline network. It would also affect the Caspian Pipeline Consortium linking Central Asia with the Russian port of Novorossiysk on the Black Sea which would become less attractive. As argued by Dorian, "those who control the oil routes out of Central Asia will impact all future direction and quantities of flow and the distribution of revenues from new production" (Dorian, 2006: 554).

This situation is replicated in the electricity sector. If the establishment of further interconnections with the UCTE system, as envisaged in the EU-Ukraine memorandum on energy cooperation, follows the Burshtyn Island example of disconnecting whole parts of the country from the rest of the CIS synchronised electricity grid, this would mean that Ukraine's integration into the EU energy market would quite literally involve its disconnection from CIS structures. There are fourteen high-voltage and eighteen low-voltage cross-border electricity lines that carry electricity between adjacent *oblasts* in Ukraine and Russia (Electric Power Council of the CIS, 2007; Energy Strategy of Ukraine, 2006: 33). Their disconnection would negatively affect electricity exchanges in the region and would deter joint exports to third countries.

Furthermore, the use of precise mapping techniques and monitoring programmes for hydrocarbon transit and supply networks through satellite surveillance systems such as Galileo, also envisaged in the Memorandum, would extend the EU's field of vision not only deep into the Ukrainian energy sector but the Russian oil and gas sector as well. This is problematic in view

of the entry into force in November 2003 of a Russian federal law 'On State Secrets', which classifies information pertaining to "the quantity and volume of oil and gas reserves, and the methods, locations, and amounts of extraction, production, and consumption of Russia's strategically valuable fossil fuels" (Fredholm, 2005: 6; *Energy Strategy of the RF*, 2003). Given that significant volumes of Russian gas were until recently piped through the eastern sections of the Ukrainian high pressure grid to territories in southwest Russia, such surveillance activities on the part of the EU adds a state security dimension to the problem. This may well have been a factor in Gazprom's decision to reroute supplies by constructing pipelines that bypass Ukrainian territory. Because "pipelines constitute strategic, as well as commercial infrastructure" (Roberts, 2004: 17), the installation of gas meters across Ukraine, and particularly on the pipelines crossing the country's eastern border, would cause further concern in Moscow.

EU activity in the eastern neighbourhood would also have repercussions for Russian investment in the energy field. The spate of mergers, acquisitions and takeovers of Ukrainian assets by Russian investors has been driven by the desire to re-integrate the energy infrastructure of the former Soviet Union for both commercial and security reasons (Fredholm, 2005: 7). When acquiring Ukrainian gas distributors, refineries and *oblenergoholding*, Russian and other companies from the CIS have been greatly facilitated in their task by the fact that "[t]he evolution and development of laws, rules, policies, and practices governing privatisation, licensing, regulation and trade policy in Ukraine often parallel or follow those in Russia. Detailed knowledge of how these rules and institutions function, and how to circumvent them, have enabled Russian investors to purchase and run companies profitably that Western investors could not" (Crane et al, 2005: 426). The extension of EU legal, regulatory and technical standards to Ukraine would radically change the investment climate in the country and would take away some of the competitive advantage enjoyed by CIS businesses when operating in Ukraine. Indeed one of the guiding principles of EU external energy policy jointly proclaimed by Piebalgs and Solana is to "improve the climate for European companies' investments in third countries and open up the production and export of energy resources to EU industry" (Solana, 2006).

This leaves one wondering at whose expense would the creation of such a 'level-playing field' be. The expansion of the EU legal and regulatory base in the direction of Ukraine would also create a misfit between the country's legislation on energy, environment, competition, etc. and that of the rest of the CIS. The overall effect of altering Ukraine's legal and regulatory landscape would be to make reintegration in the energy field an impossibility.

Lastly, drawing Ukraine into organisations such as the Energy Community has implications for the wider market in hydrocarbons in Europe. As shown by Grais and Zheng, the East-West energy trade is characterised by a hierarchical decision structure where "the critical decision determining the game outcome is the Russian gas supplier's selection of the price. [...] However, if western importers in different countries reach an agreement to act jointly to generate some monopsonic strength, and if they form a coalition with transit states, then the game framework will be modified structurally" (Grais and Zheng, 1996: 5). As the EU has started work on a common energy policy and has begun to draw transit countries like Ukraine into regional alliances, Russia's ability to set the terms of the East-West energy trade will sooner or later be called into question. In practice this would mean that producers will see their margins eroded and will be forced to sign shorter term contracts containing fewer take-or-pay obligations and more resale clauses (Stern, 2002: 20). A further consequence would be that spot trading will replace oil-linked pricing and indexation traditionally preferred by exporting nations (Kemp and Stephen, 2002: 52). The structuring of contracts in ways that are more attractive to buyers than sellers would thus amount to a fundamental renegotiation of the terms of the East-West energy trade.

At the very least, institutions such as the Energy Community would serve to pre-empt or contain potential alliances between energy exporting states in Eurasia or even forestall the emergence of the much dreaded 'OPEC for gas', Moscow's idea of a gas exporters' cartel as an answer to the EU's common energy policy. In the present competitive international energy environment better characterised by the Regions and Empires storyline than the Markets and Institutions one (Correljé and van der Linde, 2006), the forging of trade- and norms-based international coalitions such as the Energy Community Treaty should not be seen exclusively as a benevolent export of

civilian virtues, but rather as a strategic attempt to bring pressure to bear on suppliers. Brussels' intention to help Ukraine integrate into the EU energy market, while highly commendable in itself, has important consequences for that country's position vis-à-vis its neighbours to the east which the Union needs to address if it is to maintain good relations with everyone in the neighbourhood.

Conclusion

This chapter examined EU energy-related activities in Ukraine with a view to their potential and actual effects on the country's significant energy ties with the east. It analysed the thrust of EU involvement in Ukraine's energy complex according to certain categories of activity, and tried to draw parallels with EU border management initiatives in the region despite the difference in the context within which they have taken place. If the European Union does not have a common energy policy as it does in the JHA field and therefore lacks the competence to act on the basis of a single coherent strategy, one wonders whether perhaps the actions it has taken in Ukraine point to a certain coherence at the tactical, if not the strategic, level. That is to say that EU activity in the eastern neighbourhood, and possibly elsewhere, is characterised by a particular way of going about things and that this mode of operation is transferable from one policy area to another.

The next chapter seeks to apply the model developed in the study of EU external activity in the spheres of energy and border management to a policy area that is more political, namely that of democracy promotion. Although the issues dealt with in the chapter are seemingly less technical in nature, it can and will be argued that the Union has applied a similar approach to the development of democracy in Ukraine that incorporates elements of technical support, surveillance, policy export and coalition-building evidenced in the last chapters. Unlike the previous two cases, however, the effects have been much more immediate and spectacular.

CHAPTER V

THE EU AND THE ORANGE REVOLUTION: FACILITATING POLITICAL CHANGE IN THE EASTERN NEIGHBOURHOOD

Introduction

In the mid-2000s a series of 'electoral revolutions' swept through the territory of the former Soviet Union bringing major changes in their wake. Among the most memorable and significant of these political upheavals were the events that came to be known as the Orange Revolution in Ukraine. An important aspect of the electoral turmoil in Ukraine concerns the involvement of the newly enlarged European Union in the political crisis triggered by the 2004 presidential elections in the country. The EU played a measurable, indeed, a crucial role in the outcome of the disputed poll. This chapter examines the modalities of EU involvement in the Ukrainian election crisis of 2004. It shows that this involvement took the form of (1) medium-term technical assistance and training to local non-governmental organisations engaged in election-related activities; (2) election monitoring via OSCE and other international observer missions; (3) declarative diplomacy in the form of speech acts of non-recognition uttered by prominent political figures from the EU; and, finally, (4) crisis mediation both in and outside the framework of the roundtable talks held in Kiev following the disputed second round of voting. It is argued that through this interlocking set of activities the European Union became a facilitator of political change in the country and that this change had important implications for the regional order in the post-Soviet space. While the electoral intervention mounted by the EU in Ukraine was motivated by the perceived deficiencies of the ballot, its foreign policy activism at the time of the crisis cannot be analysed in isolation from the Union's wider political and strategic ambitions in the eastern neighbourhood understood in terms of the impact that the Orange Revolution has so far had on Ukraine's external orientation and on East-West relations in general.

The chapter uses official documents and declarations by EU and national leaders. It also draws on material from a dozen confidential interviews conducted by the author in Brussels and Kiev. Interview

respondents included officials from the EU Council of Ministers Secretariat, the EC Delegation and Member State embassies in Ukraine, as well as members of Javier Solana's team of mediators who accompanied the High Representative on his mission to Kiev. Respondents also included election monitors and employees of West European and Ukrainian non-governmental organisations involved in the election process. The chapter begins with a detailed account of the 2004 Ukrainian presidential election crisis, examining the circumstances of its outbreak, dramatic escalation and ultimate resolution. It then proceeds to investigate how the European Union was able to influence the course of events in Ukraine through a combination of organisational, financial, rhetorical and diplomatic means. The final part deals with the foreign policy consequences of the spectacular change of political leadership brought about by the electoral revolution in Kiev at the end of 2004.

The 2004 Ukrainian Presidential Election Crisis

The 2004 presidential elections were the third of their kind in the history of post-Soviet Ukraine. After a decade in power, the outgoing president, Leonid Kuchma, decided to step down despite a Constitutional Court ruling allowing him to stand for a third term in office. His very poor showing in the polls and the prevailing political circumstances in the country persuaded him not to seek re-election. The year 2004 thus marked the end of the Kuchma era and ushered in a period of intense political competition. For the main forces in Ukrainian politics this was a time of great trial and trepidation as the country's future course of development and their own political fortunes hinged on the result of the forthcoming election. The national importance of the ballot and the uncertainty it spelled for the forces contesting it conspired to turn the 2004 presidential election into a highly charged political event.

Elite and Societal Polarisation

What fuelled the sense of unease about the approaching election was the acute awareness that the main political actors vying for the presidency had different domestic and foreign policy agendas. Ukraine's political life since

independence has been characterised by a high degree of ideological polarisation that has its origins in the country's historic regions (Birch, 2000). Regionalism is an important factor in Ukrainian politics as diverging historical experiences; cultural affinities; economic incentives; family ties; and, above all, language use have shaped the electorate's political preferences in ways that have led commentators to speak about different political cultures coexisting within the confines of the Ukrainian state (Barrington and Herron, 2004: 78). So deep are the divisions in political outlook associated with different parts of the country that some have even questioned whether Ukraine is a political community or nation at all (Zimmerman, 1998). These divisions are present along a wide spectrum of issues, but transpire most clearly in the different attitudes towards Ukrainian statehood and towards relations with Russia and the status of Russian culture and language in Ukraine found in the west and north of the country, on the one hand, and in the east and south on the other (O'Loughlin, 2001: 29).

The attitudinal differences among voters living in different parts of the country translate into domestic and foreign policy preferences that have defined the electoral map of Ukraine since independence. While they remain dormant outside periods of intense political activity - thus accounting for the relatively peaceful state of affairs in the country so far - regional divisions become an important factor during elections and political crises (Chudowsky and Kuzio, 2003: 276). Political parties in Ukraine tend to have regional bases of support, and reflect and champion the ideological preferences of the populations in the geographic regions that they hail from. Because regional polarisation has persisted and shows no signs of abating (Kubicek, 2000), every national election since 1991 has been essentially a referendum on issues pertaining to cultural and foreign policy identity rather than an inquiry into the precise set of policies that would take the country forward and into the future. The 2004 presidential election was no exception in this regard.

Voting in 2004 was not only about matters of ideology and national identity however; it was also about the protection of vested interests. Because of the way politics and business are intertwined in the post-Soviet world, one of the predicted outcomes of the ballot was that those members of the economic elite enjoying close ties with the new president would stand to gain

from his administration's economic policies. Ukraine's business elites are grouped around several financial-industrial conglomerates that emerged as a result of the privatisation process in the mid- to late 1990s. These business groupings or 'clans' are centred on three of Ukraine's largest cities and are held together by ties of friendship, kinship and loyalty to the region in which they are domiciled (Pechonchik, 2004). Much of Kuchma's second term was characterised by intense rivalry over lucrative investment deals that were part of the ongoing privatisation of state enterprises. The period leading up to the election saw tensions among the clans, as well as between the clans and smaller business groupings that had been less successful in acquiring state assets. These oligarchic rivalries added to the sense of expectancy and served to intensify the already highly charged political atmosphere in which the election was taking place.

The two main contenders for the presidency epitomised the deep divisions existing within Ukrainian society at both mass and elite level. The election pitted the leader of the parliamentary opposition, Victor Yushchenko, against the incumbent prime minister, Victor Yanukovich. Yushchenko's political support derived from his leadership position in Ukraine's largest opposition party at the time, Our Ukraine, which represented an alliance of mainly right-wing nationalist organisations active in the western part of the country. He also had the backing of the eponymous Yulia Tymoshenko bloc, popular in central Ukraine, with whom his party had signed a coalition agreement. Yushchenko thus enjoyed the support of voters in the country's historic west and, to a lesser extent, central regions. His patriarchal image and espousal of national traditions went down well with these regions' predominantly agricultural population (Zhdanov et al, 2004: 7). Yushchenko's candidacy also appealed to the growing upper middle classes in the capital city Kiev, as well as to members of Ukraine's smaller business groupings, many of whom had joined the ranks of his party and provided the funding for his election campaign.

The candidate of the opposition's central message was that the country needed comprehensive change in all aspects of its public life. In a televised debate with his opponent held shortly before the second round of voting, Yushchenko criticised the status quo and promised sweeping changes that

would transform Ukraine's political, economic and administrative landscape (*UT-1*, 19 November 2004). He made the issue of corruption a central pillar in his campaign strategy and advocated far-reaching personnel changes as a way of dealing with the problem. Similarly, his election manifesto contained a long list of measures, many of which smacked of populism, designed to radically alter the socio-economic conditions in the country and thereby restore the dignity and moral and spiritual wellbeing of the Ukrainian nation (Copsey, 2005: 100). Yushchenko's reformist zeal extended to foreign policy as well which under his presidency would become much more consistent. He was deliberately vague as to what precisely this would mean, but left no doubt that with him in the driving seat the country would be moving in a westward direction. In attacking nearly every aspect of his predecessor's rule, Victor Yushchenko positioned himself as the anti-establishment candidate who would challenge the entrenched political order in the country.

By contrast, the candidate of the government staked his claim to the presidency on the preservation of the status quo. As prime minister since 2002, Yanukovich defended his government's economic record by drawing attention to the high rates of growth achieved during his time in office. At the same time, he stressed the need for stability that was necessary to sustain this growth. The prime minister exploited his reputation as a capable manager and a resolute politician that appealed to the urban working classes in the heavily industrialised east of the country. Yanukovich made a point in articulating the disappointment felt by many in the Russian-speaking east and south about the way in which the country had evolved since independence. He offered dual citizenship and an official status for the Russian language to those who thirteen years on still found it difficult to come to terms with the dissolution of the USSR (Hesli, 2005: 170). Much like Yushchenko's social programme, these promises betrayed a taste for populism. On foreign policy, the incumbent prime minister defended the economisation of Ukraine's external relations that had taken place during Kuchma's second term in office, and spoke in favour of closer economic ties with Russia within the framework of the Single Economic Space agreed in 2003. His comments on the western vector of Ukrainian foreign policy were measured and generally positive, yet

carried overtones of reservation to and disappointment with the EU (*UT-1*, 19 November 2004).

Victor Yanukovich was officially nominated by the Party of the Regions, a centrist political force with extensive ties to big business in the far eastern *oblast* of Donetsk. His candidature was also endorsed by several other centrist parties drawing support from left-bank Ukraine, who together with the Party of the Regions represented the pro-presidential majority in parliament (Zhdanov et al, 2004: 8). As the former governor of Donetsk, Yanukovich had the full backing of Ukraine's wealthiest and arguably most powerful industrial conglomerate, System Capital Management, whose owner, Renat Akhmetov, underwrote his election campaign. Yanukovich also had the half-hearted support of the other two principle oligarchic groupings in Ukraine. Although they feared the might of the Donetsk clan whose interests he represented (Kuzio, 2007: 52), as far as the election was concerned, Yanukovich seemed to them like the more palatable of the two alternatives. It was assumed that he would maintain the status quo from which they all benefited. His reform-minded opponent, on the other hand, threatened to change the rules of Ukrainian politics in ways that they found distasteful.

Thus on the eve of the presidential election Ukraine's political and economic elites, together with large sections of the voting public, found themselves on opposite sides of the political divide. While initially Yushchenko enjoyed a considerable lead in the opinion polls, by late summer his victory was no longer a forgone conclusion. As is often the case in closely fought elections, "the dynamic of the campaign generated a greater degree of uncertainty about the outcome than might have been predicted" (Whitehead, 2007: 17). Yushchenko's lead in the opinion polls began to wane, owing partly to Yanukovich's greater electoral reserves in the more populous eastern oblasts, which took longer to mobilise, and partly to the sharp increase in pensions and salaries paid out by his government in the immediate pre-election period. This emergency, even desperate, measure taken by the Yanukovich government proved successful in swaying undecided voters in favour of the prime minister. By October 2004 his ratings were virtually on a par with those of the opposition candidate.

Following the first round of voting, which Yushchenko won by the narrowest of margins, the main third force candidates aligned themselves with each of the frontrunners. The leaders of the Socialist Party and the Union of Industrialists and Entrepreneurs, Alexander Moroz and Anatoly Kinakh, on the one hand, and that of the Progressive Socialists, Natalia Vitrenko, on the other, urged their supporters to vote for Yushchenko and Yanukovich respectively (Clem and Craumer, 2005: 376-377). The head of the communist party, Petr Symonenko, decided to back neither of the two contenders because he saw them as representatives of competing oligarchic interests. His followers, however, in all likelihood voted for the prime minister because of the similarity between Symonenko's electorate and that of the Party of the Regions (Kuzio, 2005a: 9). President Kuchma officially remained neutral, yet clearly favoured Yanukovich. The aftermath of the first round, therefore, pointed to an even higher concentration of interests of the political and business elite around the two key candidates than had previously been the case (Kempe and Solonenko, 2005: 131). A major fault-line had thus emerged between those who saw their interests as served by stability and the continuation of the status quo and those who identified themselves with change.

The Status Quo and its Discontents

While Yanukovich stood for stability and the preservation of the status quo, the status quo was far from stable. Already in 2000, Kuchma's presidency had been rocked by a series of scandals that the opposition dubbed 'Kuchmagate'. The political crisis that had gripped the country for several months had seen large protest rallies in central Kiev at which leading politicians had called for the president's resignation (Kudelia, 2007: 82). The protests, organised by Moroz's socialists and Tymoshenko's Fatherland Party, continued sporadically throughout Kuchma's second term. Although the president managed to ride them out, his approval rating never really recovered and by the time of the presidential election in 2004 he was regarded in many quarters as something of a lame duck. Kuchma's unpopularity became a liability for Yanukovich who, in the eyes of the voting public, was guilty by association with the president's beleaguered and discredited regime (Kuzio, 2007: 50).

The political instability that characterised much of the early 2000s also threatened to affect the distribution of competences among the main institutions of the state. An important element in Kuchma's fight for political survival involved the adoption of constitutional amendments that would expand the powers of the parliament at the expense of the presidency. Ukraine entered the election period with a constitution that provided for a super-presidential system of government in which the head of state had considerable leverage over every other branch of power. In a series of legislative initiatives, Kuchma attempted to muster an absolute majority in parliament in order to push through the necessary changes to the constitution that would in effect tie the hands of his successor (Christiansen et al, 2005: 220). This proved to be rather tricky, not only because Kuchma's initiatives were resisted by Yushchenko and his allies who were hoping to win the forthcoming election, but also because enforcing party discipline across the diverse and unwieldy pro-presidential majority in parliament was an exceedingly difficult task. Kuchma's efforts were repeatedly frustrated right until the start of the election campaign, which meant that the presidential candidates entered the race in the knowledge that this was an all-or-nothing contest in which the victor would claim all the spoils.

The failure to implement constitutional reforms in line with Kuchma's plans for a weakened presidency led to heightened expectations and fears on both sides. The uncertain outcome of the race and the high stakes involved in it caused great agitation among the elite as personal and clan interests hung in the balance. This mood was replicated at the societal level, where the foregoing ideological schisms combined with considerable popular dissatisfaction with standards of living in the country to produce a feverishly tense political atmosphere. The ballot took place at a time when the Ukrainian economy was registering very high rates of growth while living standards had remained depressingly low. There were some regional variations evidenced by higher earnings in the industrialised east where much of the new wealth was being generated (Bojcun, 2005: 10). On average, however, the high levels of poverty and underemployment inherited from the 1990s persisted and led to widespread public disaffection. The growing gap between rich and poor added to the perception that the benefits of the economic boom were not

being distributed equitably. All this meant that, with a divided elite and a disaffected population, the situation in Ukraine was prone to electoral tensions.

The 2004 presidential election was probably the most acrimonious and hate-filled political confrontation the country had ever seen. The campaign itself was conducted in a hostile and tension-laden environment with ample use of 'black PR' and other character assassination techniques by both sides (Kuzio, 2005d: 496). There were rumours of conspiracies and assassination plots, including an alleged poisoning of the opposition candidate Victor Yushchenko. In a prelude to serious political instability, violent tussles broke out a week before the first round of voting inside the building of the Central Electoral Commission which at the time was deliberating the possibility of opening additional polling stations in Russia to accommodate the large numbers of Ukrainian citizens living there. The events on the night of 23 October, in which Yushchenko himself took part, demonstrated that the political partisanship and activism prompted by the approaching election had reached levels of militancy that threatened to destabilise the political process in the country (Whitehead, 2007: 18).

The most destabilising aspect of the election campaign, however, was the ease with which the contending parties were prepared to question the legitimacy of the voting process and to take the contest outside the electoral framework. The mayoral election in the south-west Ukrainian town of Mukachevo held earlier in the year provided an example of how vote-rigging, or the accusation thereof, could lead to serious destabilisation of the situation and cause the subversion of the political process. The opposition had alleged that through a strategy of intimidation and ballot-box stuffing one of the pro-presidential parties in parliament had managed to secure the appointment of its candidate over that of the opposition. Refusing to accede defeat, they had taken to the streets in protest and had ultimately forced the resignation of the official concerned. The significance of this municipal contest lay in the fact that both sides viewed it as a preparation for what could later occur on a national scale (Kuzio, 2005c: 125). The readiness with which opposition groups had resorted to acts of civil disobedience, and the implicit (and in some cases explicit) threat that such tactics would be used again should the autumn

elections fail to meet their expectations, added another level of unpredictability to what was already a very tense and uncertain political environment.

To summarise, after a long period of political instability that accompanied Kuchma's last years in office Ukrainian politics was set for a major upheaval. The polarisation of elite and public opinion; the build-up of tension and hostility in the run-up to the election; the failure of previous attempts at accommodation and the consequent turning of the ballot into a winner-take-all race; and, finally, the readiness of the main contenders to challenge the election results and to act, if necessary, outside the electoral framework meant that in the autumn of 2004 the situation in the country contained all the requisite ingredients of a serious political crisis-in-the-making.

Post-electoral Standoff

The crisis erupted with full force on 22 November soon after the official election results were declared. Following the announcement that, according to the electoral commission's figures, the prime minister had won the contest by a couple of percentage points, large crowds began to gather on Kiev's main square. The protesters claimed that the official results did not reflect the will of the Ukrainian people because the election campaign had not been run in a fair manner, and because widespread falsifications had taken place throughout Ukraine, and specifically in the prime minister's power base in Donetsk (Myagkov, 2005: 109-122). The protests were spearheaded by opposition MPs and members of the radical youth group Pora which had started as a student nationalist movement in the western city of Lviv. In fact, the most ardent protesters on Kiev's central square hailed from Yushchenko's electoral stronghold in western Ukraine (Kuzio, 2005a: 14). They were joined by students, young professionals and other residents of the national capital. Protest rallies were held in other Ukrainian cities as well and were not exclusively in favour of the opposition candidate. However, the main action took place in the capital city where the vast majority of demonstrators supported Yushchenko.

The opposition barricaded the presidential administration, cabinet of ministers and other key government buildings and threatened to take them

over by force. They also announced their intention to hold an indefinite campaign of civil disobedience and called for a national strike if the official results were not withdrawn and reconsidered. Then on 23 November, a day after the election outcome had been announced, Victor Yushchenko took the presidential oath of office in a plenary session of the parliament attended only by opposition MPs and therefore lacking quorum (Karatnycky, 2005: 40). Yushchenko swore to defend his right to the presidency and called upon local authorities to begin transferring power to the opposition. This radical, if symbolic, gesture testified to the opposition's complete withdrawal of consent to the legitimacy of the government and its institutions. After months of growing tensions, the contest finally reached the point when "the dynamics of politics was replaced by the dynamics of revolution" (van Zon, 2005: 386).

Yet despite the revolutionary rhetoric coming out of opposition leaders, the protests themselves remained relatively peaceful considering the circumstances in which they were being held. Only on one occasion did the threat of a forceful takeover of government buildings come close to materialising. Otherwise, the organisers demonstrated remarkable skill in managing the campaign of non-violent yet active resistance that underpinned the opposition's strategy (Wilson, 2006: 30). Indeed, the level of organisation and professionalism seen in Kiev suggested that the protests were not spontaneous but had in fact been a long time in the planning. Maintaining the infrastructure that kept them going for several weeks testified to the financial resources that the opposition had at their disposal (Bojcun, 2005:16). The demonstrations also brought to light the latent support that Yushchenko enjoyed within the establishment itself.

That the protests were allowed to continue for as long as they did and on a scale that gave the opposition the means to put pressure on the government suggests that extensive collusion had taken place between the revolutionaries and representatives of Ukraine's security services. The rallies in support of Yushchenko went on unchecked for seventeen days as there was no attempt to restrict access to the city centre, where the crowds had gathered, or indeed to disperse them (D'Anieri, 2005: 245). A week into the crisis rumours spread that detachments of the Interior Ministry's riot police were making their way towards central Kiev with the intention of securing

access to government buildings. The alleged march on Kiev, however, did not happen as troop commanders were reportedly talked out of it by senior officers from the Ukrainian armed forces who either sympathised with the protesters or simply wanted to avoid escalation (Binnendijk and Marovic, 2006: 419). It is also possible that the orders to mobilise and then call off the Interior Ministry troops came from President Kuchma himself who was in two minds throughout the crisis. In either case, individuals within Ukraine's intelligence services were in contact with the opposition and provided information on any activities that may have put the protestors in danger. The divided loyalties of the security services thus ensured that the demonstrations could go on unhindered.

What is more, some members of the establishment actively facilitated the protest movement by offering logistical and moral support to the demonstrators. Of particular note here is the behaviour of the mayor of Kiev, Alexander Omelchenko, who, after hedging his bets for a while, opted to join the opposition effort by providing shelter and other amenities to Yushchenko's supporters. When the protests continued unimpeded, whole sections of the elite began to defect to the opposition as local authorities in west and central Ukraine, MPs from the pro-presidential majority, and business leaders who no longer saw their future with the prime minister decided to jump ship and throw in their lot with Yushchenko. The party of power thus began to rapidly disintegrate prompting an even greater number of desertions. Next, journalists, government employees and cadets from the capital's police academy openly declared their support for the opposition. The prime minister was now facing calls for his resignation amid growing demands for the result of the second round of voting to be annulled.

The breakdown in loyalties among Kiev-based elites and the subsequent advancement of the opposition cause prompted a backlash from those regions in the east and south of the country that supported Yanukovich. A meeting of regional elites was convened on 28 November in the town of Severodonetsk situated in the far eastern region of Lugansk (Kuzio, 2005a: 7). The convention brought together local government officials from seventeen oblasts representing virtually all parts of the country. Among the topics for discussion was the controversial proposal to create a south-eastern autonomous republic within the boundaries of the Ukrainian state in the event

that Yushchenko became president. According to the proposal, the head of the autonomous republic was to be Victor Yanukovich who was present at the meeting. Although the proposal was in all probability an emotional reaction to the events in the capital, and anyway no decision was taken on it, the potential threat to Ukraine's territorial integrity implied in the idea of an autonomous south-eastern republic undoubtedly came as sobering news to wrangling elites in revolutionary Kiev.

Alarmed by the events in Severodonetsk and to prevent further deepening of the crisis, President Kuchma called for roundtable discussions to be held between the two sides. The talks were convened on the initiative of Vladimir Litvin, parliamentary speaker and leader of the pro-presidential faction in parliament, who acted as a go-between (Pifer, 2007: 35). Three roundtable discussions took place over a period of ten days in late November - early December 2004. They were attended by foreign mediators, including heads of EU governments and institutions and the speaker of the Russian parliament. In between the three roundtable talks, politicians on both sides of the political divide engaged in informal behind-the-scenes deliberations in an effort to find a negotiated end to the crisis. It was during these informal meetings that a compromise solution to the conflict was eventually found.

For all its theatrics and melodrama, the 2004 Ukrainian presidential election crisis produced a negotiated, as opposed to a revolutionary, outcome (Kudelia, 2007: 97). The political bargaining started as soon as the official results were announced. In a spirit of compromise and by way of making amends, the Yanukovich side offered Yushchenko the post of prime minister under a Yanukovich presidency which the opposition leader refused. This conciliatory gesture demonstrated the announced winner's desire to resolve the matter quickly, amicably and without recourse to the legal system. As the impasse continued, however, it became increasingly obvious that the dispute could not be settled by legal means, let alone through personal reconciliation. At the height of the crisis, the parliamentary speaker, Vladimir Litvin, proposed a political solution to a situation that was rapidly moving outside the framework provided by the Ukrainian constitution. Litvin's feelings about Yanukovich's candidature were ambivalent, as were Kuchma's whose support for the prime minister had been insincere all along. While Kuchma was loath

to hand power over to Yushchenko, he had little trust in Yanukovich who had allegedly been foisted on him by the Donetsk clan. During the course of the negotiations, relations between the president and the prime minister became increasingly strained leading to the latter's isolation at the roundtable talks (Pifer, 2007: 35).

The Endgame

The final settlement reached at the negotiating table reflected the interests of all parties in the crisis, except those of Yanukovich. Further to Litvin's proposal to move the deliberations from the legal to the political field, it was agreed to skirt the constitutional provisions governing the conduct of elections and hold a repeat second round of the vote. The crisis officially ended with a Supreme Court ruling that met the opposition's principle demand by declaring the results of the November poll null and void. The Court also ordered the central electoral commission to set the date for a new round of voting that would take place several weeks later. Furthermore, it was agreed that the new round would be conducted in accordance with a special election law that would temporarily suspend the use of absentee ballots which Yushchenko claimed had been used to distort the result in favour of his rival, and that a new central electoral commission would be appointed in which the opposition would enjoy greater representation than it previously had.

In return for these concessions on the part of the authorities, Yushchenko agreed, albeit reluctantly, to Kuchma's longstanding wish for a significant reduction in presidential powers, particularly where the appointment of key government officials was concerned. It was agreed, however, that its implementation would be delayed until one year into the new presidency, thus giving the eventual winner the chance to enjoy the same powers as his predecessor, albeit for a limited period of time. Several days later, the Ukrainian parliament approved what was already agreed at the top when an uncharacteristically large majority of deputies from both opposition and pro-presidential parties voted yes to the package of constitutional amendments and other election-related legislation that emerged as a result of the roundtable process (Christiansen et al, 2005: 220).

That the resolution to the crisis was the product of an elite pact rather than the outcome of due legal process is evidenced by the fact that the decisions taken by the country's highest legislative and judicial institutions deviated from the letter, if not the spirit, of the Ukrainian constitution in some important ways. To begin with, when annulling the results of the second round of voting on the grounds that it was impossible to determine whether they represented the will of the Ukrainian people because a significant number of electoral violations had taken place, the Supreme Court did not examine the facts behind these violations. Instead, it referred to the fact that the circumstances of the alleged electoral fraud were already being examined in the lower Courts of Appeal which were still in session at the time (Supreme Court of Ukraine, 2004). The Supreme Court nevertheless proceeded to invalidate the results of the November poll without awaiting the decision of the lower courts. Furthermore, by ordering a repeat of the second round the Court exceeded the mandate given to it by the Ukrainian constitution which invests it with the powers to determine the legality of the central electoral commission's actions but not the right to call for new elections. If the official results were deemed unreliable and a fresh poll was indeed necessary, then a completely new election should have been organised as stipulated in the constitution, including a new campaign with the possible participation of new candidates (Frolov, 2005: 3).

Similarly, the changes to the electoral law passed by parliament on 7 December that only applied to the repeat second round of the vote represented a significant deviation from established legal practice. There were no provisions in Ukrainian and international law alike under which 'special' elections could be governed by 'special' laws. By the same token, adopting new election-related legislation while the ballot was technically still in progress constituted another example of the 'legal nihilism' that characterised the compromise solution which ended the crisis. Finally, the constitutional amendments circumscribing the powers of the new president, which were adopted at a single sitting in parliament and were therefore not voted in a first and then a second reading as specified in the Ukrainian constitution, set an important precedent and a potential legal time bomb as their validity was left open to questioning (D'Anieri, 2005b: 84). All this points to the conclusion that

the decisions by the Ukrainian parliament and the Supreme Court were taken in close consultation with the people around the negotiating table in Kiev, and that the latter used quasi-constitutional means to legitimise the settlement that ended the conflict on terms largely favourable to the opposition.

The third round of voting reflected the transition of power that had taken place during the negotiation phase of the crisis. If indeed the first two rounds had seen the use of administrative resources in favour of the prime minister, the boot now was clearly on the other foot. The reversal in the prime minister's political fortune was evidenced by the fact that none of his representatives made it onto the newly appointed central electoral commission. This led Yanukovich to declare during a second televised debate with his opponent that a secret collusion had taken place between Kuchma and Yushchenko to deprive him of the presidency (*UT-1*, 21 December 2004). For reasons best known to himself, Yanukovich nevertheless agreed to take part in the new ballot. The election was held on Christmas day and produced a comfortable majority in favour of the opposition leader. Yanukovich never accepted his defeat and appealed the result in the courts, citing problems with the application of the new electoral law together with widespread violations that allegedly had taken place in central and western Ukraine (Myagkov et al, 2005: 122-123). His claims, however, were rejected by the Supreme Court which upheld the results of the third round (Hesli, 2006: 173). Yushchenko officially became the third president of post-Soviet Ukraine on 23 January 2005, ushering in the prospect of major political change in the country.

EU Involvement in the Ukrainian Election Crisis

While the 2004 political crisis in Ukraine was to all intents and purposes a domestic affair, it nevertheless attracted a great deal of outside interest. One external actor that became closely involved in the events surrounding the election of Ukraine's third head of state was the European Union which in the wake of its 2004 expansion began to pay closer attention to developments on its eastern periphery. Because of its watershed quality and uncertain outcome, the Ukrainian presidential election was bound to have an impact on Brussels' policy objectives in the eastern neighbourhood. The European Council's 1999

Common Strategy on Ukraine defined "the emergence of a stable, open and pluralistic democracy in [the country]" as a strategic goal for the EU with regard to Ukraine (European Council, 1999: 1). At the same time, "[t]he weakness and uncertainty of Ukraine's political and economic situation", according to the Commission's 2002-2006 Country Strategy Paper, "call[ed] for continued strong EC engagement in order to support democratic and reformist forces, and to strengthen the country's independence and European ties" (European Commission, 2001: 14). Evidently, Ukraine's progression towards democracy - closely linked in the eyes of the Brussels establishment with a pro-European orientation - was not going to happen by itself but required constant vigilance and involvement on the part of the EU in the country's internal political process. To this end, the Union engaged in a number of election-related activities aimed at influencing the trajectory of events in Ukraine.

EU involvement in the Ukrainian presidential election followed a pattern of activity adhered to by western governments who since the end of the Cold War have sought to police the electoral politics of the countries of the former eastern bloc and beyond. This approach to democratisation that Bunce and Wolchik term the 'electoral model' constitutes "a compact package of detailed and inter-related tasks" designed to exercise control over developments taking place in the context of important elections held in nearby states (Bunce and Wolchik, 2006: 294). The intervention in the election process of target countries invariably involves the use of official diplomatic channels to convey important messages to key political figures active in that process, and entails the mobilisation of voting publics through informal civil society organisations often established for that purpose. The set of activities and practices that make up the 'electoral model' were deployed as a single strategy at the time of the Ukrainian presidential election of 2004 (Frolov, 2005: 5). This strategy had several components examined in the paragraphs below.

Assistance and Training

An important element of EU activity at the time of the 2004 election consisted in providing medium term assistance and training to civic organisations and independent media outlets involved in the election process. This entailed the

transfer of material resources and expertise in the form of technical and organisational advice to local political groups expected to play an active role in the election. The transfer of resources and know-how from the West was actively sought particularly by opposition groups who in their bid for power relied on models of political change that advocated the mobilisation of dormant populations and their involvement in the political struggle between incumbents and challengers (Bunce and Wolchik, 2006: 295; McFaul, 2007: 47). This was especially relevant in the Ukrainian context where the general public was judged to be rather passive and inert when it came to politics (Chudowsky and Kuzio, 2003)

Already in 2001, the European Commission in its 2002-2003 National Indicative Programme governing TACIS funding in Ukraine pledged "to facilitate the exchange of experience and know-how transfer between Ukrainian and EU civic institutions and mass media". The declared objective was to encourage the former to be more proactive in their relationship with the authorities and enable the latter to play a more positive role in the formation of an enlightened public opinion in Ukraine (European Commission, 2001: 21). The 2004-2006 National Indicative Programme adopted in August 2003 reaffirmed the commitment to work with organisations and structures other than those of the state. The programme allocated 10 million Euros towards overcoming the financial and organisational constraints experienced by civil society groups in Ukraine which hampered their ability to check and balance government power. The contribution was also intended to bolster the financial solvency and independence of private media channels whose role in the functioning of a democratic and pluralistic society was considered vital, particularly at times of elections (European Commission, 2003: 14-15).

With these objectives in mind, the European Commission launched several projects in the period leading up to the 2004 presidential elections designed to raise the level of political activism in the country and thus add to the competitiveness of the forthcoming ballot. The projects focused on mobilising particularly young voters in Ukraine's regions through a variety of information campaign and other educational activities that claimed to help achieve 'an equal playing field for all candidates' in the election. Monitoring of the election coverage by the regional media in several mainly eastern and

south-eastern oblasts was another focus of EU activity, as was the training of local journalists in the art of objective and professional reporting. All the projects had local NGO partners who collectively received funding of approximately half a million Euros made available through the TACIS Ukraine Action Programme (EC Delegation in Kiev, 2004). The funding was used to cover the printing costs of posters, leaflets, booklets, manuals and guidebooks, and paid for numerous seminars, training sessions, round tables, and press conferences.

In addition to these activities, the Commission contracted the services of the Bureau for Institutional Reform and Democracy GmbH (BiRD) to assist Ukraine's Central Electoral Commission in the administration of the vote (European Commission, 2004). Founded in Munich in 1998, BiRD is a privately owned German consulting firm that provides advisory services and technical assistance in electoral support, institutional reform, good governance, democratisation and conflict prevention (BiRD, 2004). BiRD, in partnership with another German consulting firm, the Icon Institute Public Sector GmbH, organised a voter education campaign in which it used audio and visual materials to explain the meaning of electoral fraud. It also trained polling station officials and judges in how to deal with election-related disputes in accordance with West European and American standards (Icon Institute, 2004). The project, worth over half a million Euro of TACIS funding, was implemented in close collaboration with the Committee of Ukrainian Voters (CVU), a national NGO active in the field of election monitoring. The three organisations jointly advised electoral commission staff on how to manage relations with election observers, thereby meeting one of the project's main objectives of improving the effectiveness of the communication between non-governmental and state structures in Ukraine. Altogether, around two thousand polling station commissioners received training within the framework of the project (CVU, 2004).

The European Commission's efforts to influence the election process in Ukraine were complemented by national assistance programmes financed and managed by the member states themselves. The UK Foreign and Commonwealth Office, for example, through its Global Opportunities Fund and with the technical and coordination support of the British embassy in Kiev, ran a number of projects in the period 2003-2004 that sought to prepare the

Ukrainian media and civil society for their role in the approaching election (Quarterly Magazine of the British Embassy in Kiev, 2004). One such project financed by the British government involved the creation of a cadre of local election observers who would monitor the conduct of the vote and gather evidence of any violations. With a budget of £70 000, the FCO organised the training of as many as ten thousand volunteer observers recruited by the Committee of Ukrainian Voters who were instrumental in challenging the official results of the second round of voting (FCO, 2004/5: 55). The United Kingdom also financed the training of election campaign teams in anti-ballot rigging and other related tactics. The explicit aim of the project was to equip opposition activists with the skills to identify and counteract ballot rigging and electoral fraud. A small number of activists and party workers received training in Poland, which they disseminated to others upon their return to Ukraine (FCO, 2003/4: 51).

The Foreign Office also supported other measures aimed at strengthening the capacity of civil society groups to exercise control over the election process, and specifically over the counting of the votes. To this end, the FCO financed a one-year project in Ukraine which facilitated the training of party activists in various techniques for ascertaining the validity of official election results, such as public opinion surveys and parallel vote tabulation. The project, implemented by a local partner, had a budget of over £20,000 and involved the organisation of pre-election and exit polls, as well as the holding of press conferences to announce their results (Quarterly Magazine of the British Embassy in Kiev, 2004).

In terms of assistance to independent-minded media groups in the country, the British government funded a two-year project designed to encourage objective media coverage in Ukraine, with a focus on the lead-up to the presidential elections. The programme had a budget in excess of £100,000 which went towards the production and dissemination of election-related analytical materials and opinion poll results, as well as the creation of information websites and the hosting of press conferences (FCO, 2003/4: 40). The UK also financed a smaller project designed to train regional broadcast journalists in the art of investigative reporting. A local media NGO in charge of implementation organised four training sessions in different parts of the

country during which participants were introduced to a variety of investigation and interviewing techniques. These and other "interlocking set of actions" supported by the British embassy in Kiev were instrumental in facilitating political change in Ukraine. They were judged to have played a modest part in "helping to provide the information, confidence and know-how that fuelled the peaceful calls for an electoral re-run and ultimate election of a pro-reform, pro-EU president" (FCO, 2004/5: 51).

EU assistance to democratic and reformist forces in Ukraine did not flow through national and supra-national channels alone, but involved certain agents below the state representing the non-profit sector in Europe. While the activities of the American democracy promotion community in the country represented by donors such as Freedom House, the National Democratic and Republican institutes, the German Marshall Fund, and the Eurasia and International Renaissance foundations, among others, have been covered extensively in the literature and the press (McFaul, 2007; Wilson, 2006; *Le Nouvel Observateur*, 2005), the activities of the European political foundations at the time of the presidential election have received less attention.

Beginning in April 2004, a consortium of European political foundations organised a series of training seminars in several large cities throughout Ukraine. The initiative was conducted under the banner of the European Forum for Democracy and Solidarity representing twenty-seven social democratic parties and affiliated foundations in Europe (European Forum, 2004: 48). Acting on the request of one of the opposition parties, i.e. the Socialist Party of Ukraine, for help with preparing for the forthcoming election, four social democratic foundations launched a joint organisational assistance project for the benefit of their sister party in Ukraine. The foundations - Alfred Mozer Stichting, Fondation Jean Jaurès, Olof Palme International Centre, and the Westminster Foundation for Democracy from the Netherlands, France, Sweden and the UK respectively - ran six training seminars in which they advised the youth wing of the Socialist Party of Ukraine on questions of strategy, communication, leadership and coalition building. The participants in these events were equipped with a range of political and organisational skills, and received advice on how to campaign in a complex and hostile political environment (Alfred Mozer Stichting, 2004: 46).

In addition, one of the foundations, supported by a grant from the Dutch foreign ministry, engaged with several anti-government youth resistance movements, such as PORA, Opir Molodi and Maidan. The foundation trained members of these organisations who then cascaded the knowledge and expertise they had gained to other NGOs during specially organised seminars held in the cities of Lviv, Odessa, Zaporizhia, and Kiev (Interview, 20 February 2008). The seminars featured presentations by youth activists from Georgia who shared their experiences on how to organise "attractive and efficient non-violent street protests". In addition to sponsoring these events to the tune of 60,000 Euro, the Alfred Mozer Foundation financially supported the printing of posters, flyers and other campaign materials used by PORA in the run-up to the election (Alfred Mozer Stichting, 2004: 52). The Westminster Foundation for Democracy (affiliated with the Labour Party in Britain) too assisted informal civic organisations in eastern Ukraine through a six-month training project designed to improve their ability to mobilise, campaign and create networks of activists across that part of the country (WFD, 2004; Interview, 13 February 2008).

The European political foundations thus played an active part in the lead-up to the presidential elections in Ukraine. By nurturing the capacity of local civil society organisations to mobilise and involve the voting public in the electoral process, they became indirect participants in the country's political process. Although their volume of funding was much smaller than that of their North American counterparts, European donors nevertheless played a major supportive, if not a determining, role in the events that accompanied the election of Ukraine's third head of state. Their contribution, together with the input from the European Commission and individual member states, helped establish a critical mass of programmes intended to bring about a transformation of the political landscape in Ukraine.

Election Monitoring

The European Union did not simply prepare elements of Ukrainian civil society to play an active role in the 2004 election; it also sent in its own sceptical auditors to observe and report on the holding of the ballot. The

practice of election monitoring is an established mechanism for verifying compliance with democratic procedures in which international observers, often in cooperation with local groups, determine the fairness of the voting process by recording and reporting instances of electoral malpractice and issuing statements used by foreign governments and organisations to confer or deny international legitimacy on the ballot. Used in the second half of the twentieth century, election monitoring in Europe intensified in the post-Cold War period and became part of the remit of the main regional bodies and institutions active in the Euro-Atlantic area.

EU election monitoring activities in Ukraine were conducted by several international organisations whose membership and ideational orientation coincided with those of the European Union. The most important of these organisations was the OSCE Office for Democratic Institutions and Human Rights (ODHIR) which, together with the parliamentary assemblies of the Organisation for Security and Cooperation in Europe, the European Parliament, the Council of Europe and the North Atlantic Treaty Organisation, sent an observation mission to the 2004 presidential elections in Ukraine. ODHIR election monitoring followed an established methodology used by the organisation since the early 1990s to scrutinise the conduct of elections in the OSCE area (Fawn, 2006: 1135).

Following an initial assessment of the need to undertake an observation mission in Ukraine, ODHIR decided to establish such a mission in the summer of 2004. The mission originally consisted of 57 long-term observers and election analysts, and was deployed in twenty regional centres across the country, including in the capital Kiev (IEOM, 2005: 4). Its members assessed the conduct of the election campaign and the political environment in which it took place, and scrutinised the implementation of election-related legislation and the overall organisation of the poll. In accordance with established practice, they met with representatives of political parties, local authorities, the media and civil society, and attended political rallies and other campaign events (OSCE/ODIHR, 2005: 35). Their efforts were complemented by representatives of Western embassies who conducted their own preliminary monitoring of the political situation in the country in the run-up to the election (Razumkov, 2004: 20, 25).

Having thus observed the preparations for the autumn elections in the weeks and months prior to the poll, ODIHR went on to send large numbers of short-term monitors to witness the proceedings on election day. Their role was to observe the polling, counting and tabulation procedures, and to communicate their findings to a core team of observers using standardised forms. Led by the British MP and Chair of the House of Commons Defence Select Committee, Bruce George, the OSCE short-term monitors gathered detailed information about over 2300 polling stations and witnessed the tabulation of results at more than 80 district electoral commissions throughout Ukraine (IEOM, 2004: 15). They were joined by observers from the European Parliament and the parliamentary assemblies of the Council of Europe and NATO, who together made up the 636-strong International Election Observer Mission (IEOM) deployed during the first and second rounds of the vote. During the third round held on 26 December 2004, the IEOM was expanded to 1372 observers, which made it the largest ever mission deployed by the OSCE (IEOM, 2005: 4).

The international monitors visited, on average, ten polling stations each and reported their observations in the form of a checklist which prompted them to evaluate the holding of the ballot according to a strict set of criteria based on OSCE/ODIHR standards. Each checklist "contribute[d] to the overall statistical profile of how polling station procedures [we]re being conducted throughout the country" (OSCE, 2008). The same methodology was used to observe and evaluate the work of territorial electoral commissions in the period immediately after the votes had been cast. The IEOM also drew on reports provided by thousands of informal 'observers' deployed by the Committee of Ukrainian Voters who, because of their accreditation as journalists, had no formal observer rights (IEOM, 2005: 25). The statistical and anecdotal information obtained in this way was analysed by the IEOM core team and was used to draw conclusions about the electoral process.

The international monitoring mission established by ODIHR was dispatched to Ukraine to observe and opine on the holding of the presidential ballot there, and its conclusions were used as a basis for the official position adopted by many OSCE participating states and organisations. Using a technology that turns the intangible reality of electoral malpractice into hard

observable facts, the IEOM officially concluded that the first round was marked by serious procedural and political shortcomings. The mission's harshest criticism, however, was reserved for the second round held on 21 November 2004, which was judged to have breached "a considerable number of OSCE commitments and Council of Europe and other European standards for democratic elections". The preliminary report produced by the organisation cited numerous instances of misuse of State resources, biased coverage in the media, and pressure on certain categories of voters to support the candidacy of the prime minister (IEOM, 2004: 1). The pattern of malpractice showed considerable regional variation, with most infringements allegedly having occurred in the eastern part of the country.

By contrast, the repeat second round won by the opposition leader Victor Yushchenko was given a clean bill of health on account of its supposedly efficient and transparent organisation. In fact, the head of the observer mission, George Bruce, went so far as to say that in a very short space of time the Ukrainians had "produced an election as good as some countries in western Europe" (quoted in Fawn, 2006: 1142). Such a ringing endorsement of the final vote presumably had an impact on decision-makers both in Kiev and the EU. Although ODIHR made no recommendations regarding the international recognition of the ballot, its conclusions amounted to a *de facto* legitimisation, or *de-legitimation*, of the election results. The organisation did however recommend to the Ukrainian authorities to amend the country's electoral legislation in line with western standards in this field.

ODIHR was not the only organisation conducting election monitoring activities in Ukraine, although its conclusions had by far the most impact on EU foreign policy at the time of the 2004 presidential election crisis (Interview, 9 November 2005). Another regional body that took part in the events surrounding the election of Ukraine's third head of state was the European Network of Election Monitoring Organisations (ENEMO). This group of 19 civic organisations from Central and Eastern Europe and the former Soviet Union professes to support the international community's interest in the OSCE region by assessing electoral conditions and offering accurate and impartial observation reports (ENEMO, 2008). In cooperation with the American non-governmental organisations Freedom House and the National Democratic

Institute for International Affairs, ENEMO sent approximately 1000 monitors drawn from 16 EU member and candidate states, as well as from former Soviet republics, to the 2004 presidential elections in Ukraine.

ENEMO reports painted an apocalyptic picture of the first and second rounds, with massive irregularities and fraud invariably committed by state structures in favour of the government candidate. They cited evidence of "a targeted and well-orchestrated campaign to disrupt voting in [certain] oblasts" accompanied by "violence, intimidation, attacks on polling stations and bomb scares". "The ENEMO International Observation Mission believe[d] that it is therefore impossible to say that the November 21 election reflect[ed] the will of the Ukrainian people" (ENIMO, 2004a). Conversely, the organisation found the 26 December round to have been "conducted in an orderly, peaceful, generally well-organised and essentially free environment". While it acknowledged the disenfranchisement of a portion of the voting public (notably in Eastern Ukraine), which it described as 'unfortunate', it nevertheless opined that the results "appear to be a reflection of the will of the people expressed at the ballot box" (ENIMO, 2004b). In its final report on the elections, ENEMO made a series of recommendations, such as the opening of criminal proceedings against the alleged perpetrators of electoral fraud.

Not all EU-based monitors however agreed with the conclusions of the ODIHR and ENEMO missions. The British Helsinki Human Rights Group (BHHRG), for example, contested the assertion that the 21 November vote had been falsified. The small Oxford-based NGO specialising in election monitoring in Eastern Europe and the former Soviet space fielded its own observers who provided counterevidence to the alleged fraud committed during the second round (BHHRG, 2004). Their findings supported the assessment of the CIS Election Monitoring Mission which declared the election of Prime Minister Yanukovich free and fair. BHHRG also took the contrary view by questioning the legitimacy of the repeat second round for which it was castigated in the British press. Needless to say, its conclusions were not reflected in the declarations on the crisis issued by key EU leaders and institutions.

Declarative Diplomacy

In addition to training local political activists and sending observers to ascertain the validity of the poll, the EU engaged in an unusually active declarative diplomacy whereby key representatives of the Brussels and national establishments made public pronouncements on the evolving situation in Ukraine. Issuing declarations and statements is a preferred instrument of the CFSP that allows the Union to advance the *acquis politique* of its twenty-five member states and, by 'speaking with one voice', to exercise influence on the behaviour and policy of foreign governments (Regelsberger and Wessels, 1996: 38). This low-cost rhetorical device is activated whenever the bloc faces challenges to its essential common interests, and particularly in situations such as the one that arose during the disputed presidential election where the country concerned was geographically close to the EU, the Union had a stake in its political and economic stability, and there was a perceived threat to EU security interests.

EU statements on the autumn poll in Ukraine preceded the actual election. Declarations were issued as early as January 2004 when the Parliamentary Assembly of the Council of Europe expressed concern that the presidential "election may not be truly free, fair, open and transparent". This was followed two months later by statements from the European Parliament and the Irish Presidency raising alarm about the deterioration of the state of democracy in Ukraine on the eve of the presidential elections and calling upon the other EU institutions to closely monitor the situation in the country and to support the activities of the OSCE there (Razumkov, 2004: 21). The use of declarations by the EU continued in the immediate pre-election period with the now Dutch Presidency issuing a statement on 29 September urging the Ukrainian government to ensure the necessary conditions for holding free and fair elections and strongly hinting at its dissatisfaction with the conditions under which the election campaign had taken place until then (European Council, 2004). These pre-election statements reflected the belief widely shared among foreign policy makers in the EU that there was going to be a problem with the autumn poll in Ukraine (Interview, 7 November 2005).

EU official pronouncements changed in frequency and tone following the publication on 22 November 2004 of the preliminary findings by the ODIHR monitoring mission. On the same day, the Dutch Presidency issued a statement in which it fully endorsed the monitors' report. The statement read that "the second round of the elections ha[d] clearly fallen short of international standards", that in the light of the ODIHR report "the EU seriously question[ed] whether the official results fully reflect the will of the Ukrainian electorate", and that it "urgently call[ed] on the Ukrainian authorities to review the electoral process and results" (European Council, 2004). This very strongly-worded statement explicitly challenging the official tally was based on the expectation for closer collaboration that many in the EU had for Ukraine. The formulation therefore reflected the background of relations between Kiev and Brussels and it was felt that this background left no room for compromise on the issue (Interviews, 7 November 2005). The statement also highlighted the fact that the Dutch Presidency stood on very firm ground in terms of the position of the other member states, as well as that of the US. There had been prior discussions about Ukraine which prompted the Hague to reject the validity of the announced results in the way that it did, knowing full well it had the majority of EU member state opinion behind it (Interview, 11 October 2006; Pifer, 2007: 38-39).

Thus on the night of 22-23 November, the General Affairs and External Relations Council adopted a declaration containing the exact wording of the Dutch statement released earlier that day. The Council declaration was followed in rapid succession over the next couple of days by a resolution of the European Parliament and by statements from the British foreign secretary and the American secretary of state. Colin Powell threatened the Ukrainian leadership with consequences if Western objections to the election process and results were not addressed (quoted in McFaul, 2007: 77), while MEPs in their resolution adopted on 24 November specifically blamed Moscow for the situation in Ukraine (European Parliament, 2004). These speech acts of non-recognition and attribution of blame had a public character. Their target audience was global; first of all the opposition protestors on independence square who were told that they were not alone. Some commentators have argued that the statements played a "direct and consequential role" in

mobilising public protest (McFaul, 2007: 82). The declarations were addressed to those who were most involved, namely the Ukrainian political class, but they also aimed to reach a wider audience, i.e. the EU, Russian and international publics (Interview, 7 November 2005).

Moreover, the message was carried directly to the protestors as politicians and public figures from the EU appeared on Kiev's main square alongside opposition leaders to address the demonstrators. In a well publicised visit, the former president of Poland, Lech Walesa, spoke at a Yushchenko rally in central Kiev and told those present that the West was on their side. He reportedly set an example followed by politicians from Germany, the Netherlands, Slovakia and the Czech Republic who also spoke at the Maidan (Karatnycky, 2005: 43). This megaphone diplomacy by individual representatives of the political class in the EU member states was complemented by official meetings in Kiev between the Ukrainian opposition and national politicians from the EU, such as the then Polish foreign minister Adam Rotfeld and a cross-party delegation of the Polish parliament (Interview, 11 October 2006). Such meetings also took place between opposition leaders and Western ambassadors. EU, US and Canadian envoys expressed support for and empathy with the opposition, and confirmed their governments' stance on the validity of the preliminary results.

Following the initial acts of non-recognition, the EU continued to make declarations at every significant juncture during the remainder of the crisis. Thus the Dutch presidency condemned on 24 November the announcement by the Central Electoral Commission of the final election results and linked the campaign of civil disobedience begun by the opposition to the quality of the election process (European Council, 2004). As the situation in the country became increasingly tense and the prospect of civil strife appeared more likely, the EU urged all sides to respect the territorial unity of Ukraine and to find a peaceful solution to the conflict (Solana, 2004; European Council, 2004).

Privately, there was certain confusion as to the real causes of the Ukrainian crisis. Some Council officials interviewed by the author described it as a classic people v power situation in which the populace had risen in anger at the perceived injustice perpetrated by the state, while others saw it as an elite struggle (Interviews, 7 and 8 November 2005). Others still viewed it as a

clash between pro- and anti-Russian factions. And yet, all EU official declarations stressed that the voting process had been marred by significant irregularities which had put in question the validity of the results. Thus while the EU as a whole did not speak the language of the Ukrainian opposition, it nevertheless maintained one of its principle demands, namely, to invalidate the second round of voting.

EU declarative diplomacy remained active until the victory of the opposition candidate had been secured. On 3 December, the Dutch Prime Minister, Jan Peter Balkenende, welcomed the decision of the Ukrainian Supreme Court to nullify the results of the run-off and assign a date for a third round of voting. Balkenende stressed that what mattered to the EU was not the victory of one Ukrainian politician over another, but the transparency of the election process through which this victory was achieved. His words were echoed by the EU external relations commissioner, Benita Ferrero-Waldner, who also welcomed the 'independent' decision of the Supreme Court (Ferrero-Waldner, 2004). The rerun of the second round greatly pleased European leaders. On 27 December 2004, they congratulated the Ukrainian people for having used the opportunity to determine the future of their country by taking part in a free, fair, and transparent election. The next day Prime Minister Balkenende, equally on behalf of the European Union, congratulated the presidential candidate Victor Yushchenko on his success and welcomed the announcement of the preliminary results by the Central Electoral Commission (European Council, 2004).

Crisis Mediation

The EU did not limit itself to verbal expressions of disapproval or content with developments in Ukraine but took direct action to influence their outcome. While Walesa was working the crowd at Independence square, EU diplomats were busy finding a negotiated way out of the crisis. The way out came in the form of a series of roundtable talks held at the Marinsky Palace in Kiev. The start of the talks was facilitated by negotiators from the EU, first and foremost by the Polish president, Alexander Kwasniewski, who used his contacts with members of the Ukrainian political elite, both pro-government and opposition,

to broker an agreement on dialogue between the conflicting parties. The Polish-Ukrainian partnership stood to be weakened or strengthened depending on who won the 2004 Ukrainian presidential elections, and that is why Poland played a prominent role in the negotiations that ended the crisis (Goldman, 2006: 410). The conclusion of the talks on terms largely favourable to the Ukrainian opposition was a success for Polish diplomacy with which Warsaw made its debut in the European Union.

The first roundtable discussion was held on 26 November 2004 and lasted for three hours. It was chaired by the Ukrainian president, Leonid Kuchma, who felt responsible for the situation in the country. The meeting also brought together the two rival presidential candidates, as well as the speaker of the Ukrainian parliament, Vladimir Litvin, who played an important facilitative role. Litvin's main contribution to the discussion was the idea that the solution to the Ukrainian election crisis lay in the political, as opposed to the juridical, field. This idea was immediately picked up by the EU mediators, the Polish and Lithuanian presidents, Alexander Kwasniewski and Valdas Adamkus, as well as by the EU high representative for foreign and security policy, Javier Solana, who maintained that the second round had been falsified and had to be repeated (Kwasniewski, 2004). Unlike Kwasniewski and Adamkus, Solana was more cautious to engage in the negotiations. Having made the decision to go to Kiev hours before the meeting, Solana was in a delicate position; he had to speak in the name of all 25 member states, some of whom put premium on stability (Interview, 9 November 2005). In addition, Solana was in the process of preparing for an upcoming EU-Russia summit which also limited his freedom of manoeuvre (Pifer, 2007: 30).

Solana's presence however gave the negotiations a multilateral character, as did that of the OSCE secretary general, Jan Kubis. The EU mediators were in close contact with the US government which elected not to get involved but instead liaised with the Polish and Lithuanian delegations to make sure the negotiations were moving in the direction it desired. Washington thus decided to take a backseat role and let the Europeans guide the talks (Pifer, 2007: 38). The fifth international mediator, Boris Gryzlov, maintained that the election results reflected the will of the Ukrainian people. The speaker of the Russian Duma instinctively supported the position of the

Ukrainian prime minister, but as the latter became increasingly isolated during the course of the negotiations, he kept a relatively low profile throughout (Interview, 7 November 2005).

The first round of negotiations ended with the decision to await the verdict of the Supreme Court whose deliberations it was agreed on Kwasniewski's insistence would be televised live to the nation. The second roundtable was held on 1 December 2004, two days before the Court produced its ruling. Different proposals on possible compromises were introduced and discussed between the parties. Observers noted the opening of a rift between Yanukovich and Kuchma, who were now pursuing different agendas, as well as positive body language between the latter and Solana, who together with Kwasniewski was sensitive to the outgoing president's position (Pifer, 2007: 35). Following the publication of the Constitutional Court's ruling, the negotiating parties met one more time in a roundtable format on 6 December 2004 to thrash out a compromise that would allow for a repeat runoff between the two candidates to be held. The principle objective of the opposition was changes to the electoral law that would facilitate its victory in the next round of voting, while the main objective of their opponents was the passage of constitutional reforms limiting the powers of the presidency (Christiansen et al, 2005: 221). Once these demands were matched, the crisis was effectively resolved to Kuchma and Yushchenko's satisfaction, leaving Yanukovich as the sole loser in this game.

The role of the EU mediators in the roundtable process cannot be easily downplayed. For a start, Kwasniewski, Adamkus, Solana and Kubis effectively launched the negotiations by rendering them legitimate in the eyes of the Orange coalition. Prior to their arrival there had only been very limited contacts between the authorities and the opposition. The EU was therefore instrumental in bringing the two sides to the negotiating table. The presence of the international mediator team also guaranteed the non use of violence, both by the authorities and the opposition (Interview, 7 November 2005). This is significant given that elements of the opposition led by Yulia Tymoshenko and Alexander Moroz wanted to follow the Georgian example and end the crisis by storming the president's office.

Furthermore, the EU negotiators successfully moderated Yushchenko's radical demand to recognise him as the winner of the presidential race on the grounds that he had gained most votes in the first round of the election. At the same time, they strongly supported his key claim to recognise the runoff as invalid and secured its repeat on terms favourable to the opposition. The EU smoothed the way to the final compromise by reassuring Kuchma that the commitments which Yushchenko took upon himself would be honoured. The mediators also sought to influence the pace at which the negotiations proceeded so as to guarantee the outcome they desired. Conscious that Yushchenko's key asset was the presence of tens of thousands of his supporters in central Kiev who would have eventually dispersed, they prevented the talks from getting bogged down (Interview, 9 November 2004). Thus on the one hand the EU mediators slowed the dynamics down and engaged the two parties in negotiation, and on the other they made sure the process proceeded fast enough before the revolutionary fervour had fizzled out and people had gone home.

EU participation in the roundtable process was complemented by diplomatic work of a more informal nature. There was considerable backchannel diplomacy underpinning the formal mediation effort. Thus on 24 November, the Dutch presidency sent a special envoy to Kiev who brought letters to president Kuchma, parliamentary speaker Lytvyn, and the head of the Supreme Court Selivon, that stressed the importance of resolving the crisis in line with democratic principles (European Council, 2004). These messages intensified in the following days and weeks, and took the form of telephone calls of a more pressing nature mainly, though not exclusively, by US politicians who explained the costs of non-compliance with Western demands for a transparent election not only for Ukraine's relationship with the West, but also for the legitimacy of the country's decision-makers (McFawl, 2007: 71). The essence of this telephone diplomacy was to bring pressure to bear on the Ukrainian leadership to review the election process and results. It targeted not only national politicians, but also members of the Ukrainian business elite who enjoyed close links with the establishment and who were particularly sensitive to international isolation. For example, one lever of influence over president Kuchma was his daughter Elena and her husband,

the oligarch Victor Pinchuk, whose business relied on exports to the EU (Frolov, 2005).

Efforts to influence the decisions of Ukraine's elite at crucial moments of the crisis, such as the alleged attempt to use the interior ministry troops to regain control over government buildings, were also reportedly undertaken by employees of EU member state diplomatic and security services. Binnendijk and Marovic report the involvement of senior Western diplomats in the flurry of telephone calls attempting to deter the interior ministry forces from deploying (Binnendijk and Marovic, 2006: 419), while van Zon cites reports of "a series of extraordinary coordinated intelligence operations, involving a breakaway fraction of the Ukrainian security service, with CIA and MI6 officers" (van Zon, 2005: 390). While very little can be known about these activities, they suggest a coordinated and effective strategy to influence the political process in Ukraine at an important stage of its development.

Discussion and Implications

The Ukrainian presidential election crisis had a number of domestic, regional and even global repercussions which tuned it into an event of momentous significance. Many heralded the 17-day Orange revolution as a triumph of democracy and freedom in the post-Soviet space. On closer inspection, however, it is debatable whether the new regime has lived up to this assessment. Actions such as the disbanding on tenuous legal grounds of the Ukrainian parliament by President Yushchenko in the summer of 2007, his interference with the Supreme Court which was in the process of delivering a verdict on the legality of his actions, and finally the attempted use of the interior ministry troops to exercise pressure on the government of Prime Minister Yanukovich, put a question mark on the new president's democratic credentials. As argued by Tudoroiu, the new regime reproduced too many of the views, attitudes, and practices of the previous one to qualify as a genuine democratic breakthrough (Tudoroiu, 2007: 319).

While the events of 2004 did not necessarily bring about real systemic change in Ukraine, they did succeed in producing a major re-constellation of forces in Ukrainian politics. The personnel changes brought about by

Yushchenko included the reinstatement in 2005 of the former foreign minister Boris Tarasyuk who espouses an exclusivist pro-Western orientation accompanied by the cutting of ties, above all political, with Russia. Similarly, Anatoly Gritsenko, the former head of the pollster Centre Razumkov and an avowed Atlanticist, was appointed minister of defence. The new president proceeded to replace a large number of regional governors with people politically loyal to himself, while the presidential secretariat and other state structures swelled from the influx of approximately 18,000 western NGO-trained new functionaries who were at "the core of the political activists who had brought about the Orange Revolution" (Brucker, 2007: 312). Because foreign policy in Ukraine is largely an elite-driven process in which decision-makers do not act on the basis of public opinion, the ability to influence appointments at the higher level of government is tantamount to directing the country's external relations.

The most palpable impact of the change in elites has thus been on foreign policy. Ukraine's participation in integration projects with its neighbours to the north and east became the first casualty of the new establishment. The country took a pause in its relations with the other former Soviet republics and focused exclusively on a far-reaching integration with the West. Ukraine's choice between a Eurasian and the European vocation now seemed decided in favour of the latter. Yushchenko's understanding of a pro-European choice is different from Kuchma's in that for him it means 'burning bridges' with the East. Thus Kiev put on hold its participation in the Single Economic Space with Russia, Belarus and Kazakhstan, citing incompatibilities with its EU orientation, specifically in the matter of customs policy (Kuzio, 2005b: 63). Kiev likewise suspended its participation in the CIS election monitoring missions because of the negative assessment that the final round of voting had drawn from the organisation.

Soon after his inauguration as the third post-communist president of Ukraine, Victor Yushchenko signed a declaration with Georgia's leader Mikhail Saakashvili on the establishment of a new regional alliance called 'Community of Democratic Choice'. Believing that their young democracies were not secure until embedded in a larger democratic community, and wishing to share the fruits of struggle with others in the region, Yushchenko

and Saakashvili engaged in democracy promotion activities on the territory of the former USSR. These were targeted above all at undermining the Belarusian government through training of opposition activists in the art of non-violent protest. Another manifestation of the regional ambitions of the new elite in Kiev was the revival of an old and moribund anti-Russian alliance by the name of GUAM (de Tinguy, 2006: 299).

Over and above spreading the seeds of democracy on CIS soil, Yushchenko began to vigorously promote Ukraine's membership in western economic and security organisations. While his first official foreign visit was in Moscow, the new president's preferred foreign policy vector certainly did not point eastwards. Under Kuchma, Ukraine temporised over the decision who the country's integration partner of choice was. Under Yushchenko, Kiev abandoned the old slogan 'returning to Europe with Russia' and unambiguously prioritised its relations with Brussels and Washington. While not a perspective member of the European Union, Ukraine began to actively participate in various EU external policies. Since 13 May 2005, for example, Kiev began to selectively align itself with CFSP declarations concerning the state of democracy in Belarus and Russia, as well as on the management of armed conflicts in the Caucasus (Interview, 9 November 2005). These declarations specifically contradicted the view in Moscow and Minsk. Likewise, Ukraine's cooperation with the EU in sectors such as borders and energy described in earlier chapters received a major boost from the new administration in Kiev.

Of special note is Ukraine's U-turn on the conflict in Transdnistria. Since the early 1990s, the self-proclaimed Transdnistrian republic situated along Ukraine's south-western border has existed outside the control of the Moldovan central government in Chisinau. Recognised by no state in the United Nations, the breakaway republic is host to the remnants of the 14th Soviet (and now Russian) Army which was instrumental in ending the military conflict that accompanied Transdnistria's secession on terms favourable to the separatists. The presence of Russian troops in the region has been a bone of contention in negotiations between Chisinau and Tiraspol, on the one hand, and Ukraine, Russia, the EU and the US, on the other. A member of the

six party talks on Moldova, Kiev until 2005 played a strictly neutral role in the resolution of the conflict.

With the arrival of Victor Yushchenko, the country's position on the Transdnistria issue underwent a seismic shift westwards unthinkable under Kuchma (Interview, 28 September 2007). Ukrainian activity in the negotiations sharply increased, prompting some commentators to speak of the Ukrainisation of the peace-making process (Korobov and Byanov, 2006: 519). At the centre of this new activism lies the idea advanced by the Ukrainian president that the resolution of the conflict should begin with new transparent and competitive elections in Transdnistria, whereas previous elections and referendums held in the republic were deemed deficient. This so-called Yushchenko Plan met with the wholehearted support of the European Union and the United States.

Ukraine's new regional role found expression in more concrete actions. On 7 October 2005, Brussels, Kiev, and Kishinev signed a memorandum of understanding on the establishment of an EU monitoring mission on the border between Ukraine and the breakaway region of Transdnistria. The mission, operational since the summer of 2006, is staffed by border guards from the EU who inspect all incoming traffic from Transdnistria. The most important aspect of this mission is that Ukraine started demanding Chisinau-issued export certificates from Transdnistrian traders thereby effectively introducing a trade blockade of the tiny separatist region. This put Kiev at loggerheads with Moscow and soured relations between Russia and the EU. The repercussions of the Orange revolution therefore spread far and wide, altering the regional order in the eastern neighbourhood and changing the relations between the main players on the European continent.

Conclusion

The Orange revolution is an extraordinary event in the history of post-Soviet Ukraine. Whether the events of late 2004 constituted a popular revolution or a bloodless postmodern coup remains a moot point (Lane, 2008). On the one hand, the election process that led to the disputed victory of the government candidate was undoubtedly marked by significant irregularities; on the other,

what followed was an overturning of the official election result through extra-constitutional means, or means bordering on the anti-constitutional, facilitated by external powers. The European Union was a prominent external actor that involved itself in the resolution of the presidential election crisis. It did so through funding and training of civil society groups active in the election; election monitoring activities designed to assess the validity of the poll; the issuing of statements and declarations aimed at influencing the behaviour of the Ukrainian authorities; and finally through direct crisis mediation efforts seeking to affect the outcome of the negotiation process. Using such tactics the EU advertently, or inadvertently, brought about a change in the country's leadership. This has had implications on the regional order in the eastern neighbourhood which continue to unfold to the present day.

CONCLUSION

The interaction between the European Union and the countries of the former USSR is an important part of East-West relations and constitutes a crucial element in the post-Cold War security architecture of Europe. In the 1990s, this interaction was rather limited in character, reflecting the political realities on both sides of the European continent. The challenges of political and economic integration in the west and the difficult process of nation-building in the east precluded both sides from actively engaging with one another. While contacts were made and did develop in this period, they were generally assigned a low priority and lacked the intensity necessary to produce a qualitative change in relations.

The 2004 eastward enlargement of the European Union, or the anticipation thereof, gave a boost to commercial, diplomatic and other exchanges between the two regions and resulted in a heightened interest, particularly on the EU side, in developments across the institutional divide that had sprung up with enlargement. The immediate effect of geographical proximity brought about by the absorption of the former Soviet bloc countries of Eastern Europe was a flurry of EU foreign policy activity directed at the new neighbours to the east. As the EU arrived at the western border of what used to be the Soviet Union, it came to the realisation that from now on its own security and stability would be affected by developments across that border, that is, developments over which it had limited control.

This perception of vulnerability is closely tied to the growing awareness in the Western world of the challenges posed by threats of a transnational, non-military nature to the interests of wealthy states and their populations. The end of the Cold War and the collapse of bipolarity in Europe gave rise to the recognition prevalent among foreign policy elites in the EU that the putative danger presented by the Soviet Union in the latter half of the twentieth century has been replaced by a range of non-conventional threats related to the social, economic and political processes set in train by the phenomenon of globalisation. Challenges pertaining to the cross-border movement of persons and goods, political instability and the breakdown of law and order, environmental degradation, the scarcity of natural resources, as

well as other sources of insecurity that seem prevalent at the start the twenty-first century have taken on a level of concern warranting a robust policy response from regional blocs such as the EU.

While the non-traditional threats that have preoccupied EU strategic thinking since the end of the Cold War are understood to transcend the boundaries of nation states and therefore to be truly transnational, if not global, in character, the policy responses they have elicited from bodies such as the EU have been surprisingly territorial and state-centric in nature. EU relations with the outside world are guided by the notion of territoriality as individual countries or groups of countries have been identified as sources or carriers of risks to the EU and appropriate measures towards them have been adopted. The sense of unease caused by these country-specific threats and the intensity of the response they have drawn from both national and supranational authorities in Europe rise in inverse proportion to their geographical distance from the EU. Herein lies the importance of the neighbourhood as an area of vital strategic concern for the European Union. The strong connection existing between the notions of security and proximity has meant that the countries directly adjacent to the Union's expanding borderline have been the object of intense interest and activity on the part of the EU, and that developments within their own borders have been interpreted as being of immediate consequence to the security requirements of the emerging European polity.

The European Union's neighbours to the east and south occupy an important place in the new security paradigm that emerged after the end of the Cold War. Rather than a source of conventional security threats, many of the states surrounding the EU have been identified as countries of origin and transit for illegal migrants and dangerous goods. Several of them have also attracted attention due to their position as suppliers or intermediaries in the trade in vital commodities such as oil and natural gas on which European economies are dependent. The security logic governing EU external relations also extends to issues of democracy and political freedom which are considered to be not only good in themselves but also as conducive to stability and good governance in the region. What is more, the different threat perceptions associated with geographical proximity are not seen as discrete,

but as part of a security continuum in which any setbacks to a nearby country's democratic development are expected to lead to instability and the breakdown of law and order, which in turn may put in jeopardy the EU's energy supplies and imperil its other soft security interests. It is with these interrelated concerns in mind that the EU devised an integrated policy for managing relations with the states lying in its vicinity.

The European Neighbourhood Policy, launched in anticipation of the 2004 enlargement, has sought to address the challenges presented by the Union's arrival at the doorstep of countries that epitomise the social, economic and political disarray characteristic of the post-Cold War environment. This is especially true for the eastern neighbourhood where the EU came in direct contact with three of the Soviet successor states by virtue of the very long land border that it now shares with Belarus, Ukraine and Moldova. The country that most clearly reflects the connection between proximity and security in EU strategic thinking is in fact Ukraine, the largest of the post-enlargement neighbours and the subject of this thesis. Ukraine lies in close proximity to some of the world's most unstable regions, i.e. the North Caucasus and the Middle East, and thus serves as a potential gateway for asylum seekers and dangerous or illicit cargoes bound for the EU. It plays a pivotal role in the East-West hydrocarbons trade owing to its location on the pipeline route between consumers in Western Europe and the oil and gas producing regions of the former USSR. Ukraine is also important for securing peace and stability around the EU on account not only of its proximity to an area where poor governance and/or armed conflict abound, but also because of the uncertainty of its own democratic transformation which carries with it the risk of political instability and civil strife. These and other related factors combine to turn the country into an object of intense interest for, and a target of systematic intervention by, the European Union and its member states anxious to control the security situation on their eastern periphery.

The targeted intervention in Ukraine's domestic affairs undertaken as part of the neighbourhood policy comes in the form of a plethora of programmes and initiatives aimed at transforming the country's economic, administrative and political landscape in line with EU interests and priorities. These tactical initiatives have grown in intensity since the year 2000 and have

targeted several sectors of the Ukrainian economy along with the country's administrative apparatus and the main political institutions of the Ukrainian state. While EU involvement in the country has touched upon multiple areas of Ukrainian public life, the priority for the period under investigation has been on redesigning the legal, institutional and physical infrastructure related to the performance of such functions as the management and policing of cross-border traffic, the generation and transportation of energy resources, and the development of a democratic political culture evidenced by the existence of a vibrant civil society and the holding of free and fair elections. The variety of programmes launched in Ukraine with a view to bringing about meaningful change across multiple policy areas share a number of characteristics that are symptomatic of the way in which the Union conducts its external relations.

EU transformative activity in the eastern neighbourhood bears the hallmark of a style of government closely identified with the doctrine and practice of advanced liberalism (as outlined in chapter three). The liberal intervention practiced by the EU in Ukraine represents a manner of going about foreign business that distinguishes it from other types of international diplomacy. One characteristic feature of how the European Union advances its interests in the former USSR is the absence of coercion. If the United States, in its desire to influence developments in the Middle East, has resorted to military occupation, the EU approach towards the Soviet successor states is based on respect for their autonomy and freedom to act of their own volition. As successive external relations commissioners, high and special representatives and other prominent EU officials never seem to tire of saying, Ukrainians are free to make their own domestic and foreign policy decisions. Whether they concern the resolution of the 2004 election crisis in the country, Kiev's relations with other former Soviet republics, or the status of Ukraine's eastern border, the choices involved in the exercise of independent statehood are for Ukrainians themselves to make. The role of the EU has been to advise and facilitate the taking of these decisions, as well as to assist in their implementation.

The absence of coercion in its relations with Kiev points to the kind of power that the EU wields over its neighbours; it does not constrain their capacity to act but, on the contrary, acknowledges it and uses it for its own

objectives. In contrast to traditional conceptions of power founded on the notion of repression, EU involvement in the eastern neighbourhood has proceeded on the basis of shared interests with the states situated along its new border. When engaging with the neighbours, the EU has been careful not to impose its views and interests on them, but to take into account their own aspirations and, where possible, utilise them to its own advantage. Thus the reinforcement of Ukraine's eastern frontier in line with EU border-related concerns has proceeded with the active cooperation of the Ukrainian authorities anxious to assert the territorial legitimacy of their young state. Likewise, the integration of Ukraine's energy complex into structures centred on the EU is underpinned by a commonality of interests, as EU concerns about the safe transit of its hydrocarbon supplies meet with Kiev's desire to ensure Ukraine's economic viability through access to the EU energy market. The focus of EU activity in the country has been on providing the expertise and wherewithal that would help Ukraine to undertake the reforms necessary to realise its aspirations.

This positive, empowering role played by the European Union in the eastern neighbourhood has the dual advantage of not only enlisting the services of other countries in the promotion of its own interests, but also of absolving the Union from any responsibility should the situation in Ukraine take a turn for the worse. Brussels' political commitment to the transformation process in Ukraine is minimal as evidenced by its reluctance to grant the country a membership perspective. The fact that the benefits derived from reforms launched in Ukraine since 2000 with active EU support and encouragement are shared by both parties, while the political costs of potential failure are for Ukraine alone to bear, shows that the influence enjoyed by the European Union with its immediate neighbours constitutes a type of power that, in true liberal fashion, comes without responsibility.

Not only has the political commitment to the reform process in Ukraine been minimal; the financial commitment has been rather limited as well. The frugality of EU involvement in the country is notable as the sums involved in EU- and member state-funded projects have been relatively small compared to the impact they have had in terms of influencing developments in Ukraine. This is most clearly illustrated by the Union's democracy promotion activities

at the time of the 2004 presidential election which were done on the cheap, yet helped to achieve political change at the highest level, and were therefore rightly described as good value for money. A similar case can be made for EU-backed projects in the energy sector and in the field of border management where a large proportion of the costs involved in transforming the country's physical, institutional and regulatory infrastructure have been borne by the Ukrainian taxpayer.

What allows the European Union to maximise the effectiveness of its interventions while diminishing their costs, understood in the political as well as the economic sense, is the strategy of indirect government pursued by Brussels in relation to its neighbours. The EU works its effects on nearby states indirectly and in an unobtrusive manner by operating through national structures and benefiting from their legitimacy and problem-solving capacity. Rather than creating new institutions from scratch, the EU has sought to utilise already existing capacities by implicating national and local authorities in projects of reform and thereby rendering them active in the promotion of its own interests. The examples of the State Border Guard Service or the Ministry of Fuel and Energy of Ukraine, both of which have been in charge of reform within their respective remits and have had to commit their own resources in the process of its implementation, demonstrate how the Union relies on indigenous authorities to further its own ends.

The art and practice of indirect government depends on the ability to co-opt national elites and enlist them in the service of particular objectives. Here EU activity has achieved notable successes in Ukraine. The launch since the year 2000 of numerous programmes and initiatives in the country was made possible by the active cooperation of successive governments and presidential administrations in Kiev. The coming to power of Western-oriented President Yushchenko in the wake of the Orange Revolution in 2004 was followed by an explosion of contacts between Ukraine and the EU, accompanied by the signing of new memoranda of understanding and the launch of various twinning and technical assistance projects. While the speed of political, institutional and legal convergence between Brussels and Kiev has depended on the ideological and foreign policy orientation of Ukraine's leaders, the EU has by no means avoided dealing with different sections of

the Ukrainian elite. This was certainly the case during the days of President Kuchma - who steered a midway course between Russia and the West - when the EU-Ukraine Action Plan, including its JHA chapter, was negotiated.

Brussels' willingness to engage with politicians of different persuasion was confirmed following the return to power of Prime Minister Viktor Yanukovich in the summer of 2006. Then the EU appealed to the business instincts of the oligarchs from eastern Ukraine who dominated his government by promising to open its market to Ukrainian steel products in return for continued commitment to reform. The fact that the second Yanukovich government did not reverse the gains made by Brussels in the period after the Orange Revolution is testimony to the enormous seductive power of the EU. That said, Brussels and the national capitals have preferred to work with political forces that are ideologically committed to Ukraine's integration with the West. They have also acted in support of such forces, particularly at crucial junctures such as the closely fought presidential election of 2004.

Political and economic elites are not the only agents of EU-induced change in the neighbourhood. In addition to elite capture, the European Union relies on a multiplicity of actors situated both above and below the state. As previous chapters have shown, the success of EU transformative activity in Ukraine has been predicated on the existence of collaborative coalitions between NGOs and civil society groups like Pora and the Committee of Ukrainian Voters, private operators such as Crown Agents and the Icon Institute, and regional intergovernmental organisations exemplified by the Energy Community and the OSCE. These and other sub- and supra-national entities from across Europe have worked together with the European Commission and the member states and have been instrumental in bringing about change on the ground. Their contribution derives primarily from the equipment and expertise they provide to Ukrainian authorities at every level, as well as from the legitimacy they confer on the political and economic reforms carried out by these authorities. The existence of complex chains of actors spanning the divide between the public and the private sphere adds another level of complexity to the study of the external activity of the multi-level, multi-perspectival polity that is the EU.

Indeed, by working with and through non-state entities, the EU bears out some of the main claims of the literature on multi-level governance. To begin with, it does not do all the governing itself but shares responsibility and authority with other actors. It does that by delegating or dispersing authority downwards to non-state entities and horizontally to other regional bodies and organisations. While the former have been involved mainly, though not exclusively, at the implementation stage of EU policies where they have made their impact, the latter have been enlisted as full participants in the decision-making process. In fact, the Union has often justified its stance with reference to decisions made by other regional organisations, such as the OSCE, with whom it shares membership and ideational orientation. It has entered into complex interrelationships with various actors above and below the state in both the EU and Ukraine in which the lines of authority have not always been clear. What is therefore in evidence is a veritable de-statisation of EU external activity where responsibility cannot be traced back to a single source of power.

At the same time the importance of the EU in the process of external governance has not been diminished as a result of entering into cooperative relations with other entities. Rather than a diminution of its competences, Brussels has seen the expansion of its managerial capacities. By steering multiple agencies, institutions and systems in the direction it desires and integrating processes at different levels in ways which promote its overall interests, the EU has been able to influence developments in Ukraine without having to resort to direct, let alone forceful, interventions. It is in this context that the steering role of the central institutions in Brussels really comes to light. By orchestrating the activities of interested parties, and thereby coordinating the external dimension of internal policies, they have established themselves as the dominant players in the management of relations with the neighbours. This is why it can be argued that external governance takes place in the shadow of the Commission and the Council (depending on the issue area), although, as the British Foreign and Commonwealth programmes in the field of border management and election-related assistance demonstrate, member states have retained the capacity to run their own projects independently from the central institutions in Brussels.

In fact, the Brussels bureaucracies have tried to provide the ground rules for governance or what multi-level governance theorists call meta-governance. They have employed the judicious mixing of market, security and other incentives to achieve the best possible outcomes from the point of view of European economic and political elites. This is particularly clear where the promotion of energy infrastructure projects, such as the Odessa-Brody pipeline, is concerned, but also applies to the coordinated activities of private operators at the Ukrainian-Russian border. In organising the conditions for self-organisation, the EU has demonstrated a unique capacity to diffuse itself in networks of joint initiatives, regional bodies and strategic alliances with third states, i.e. the United States and Canada, as well as all sorts of intergovernmental agencies that share a fundamental interest in the management of globalisation on terms favourable to the West. It has spawned a plethora of dialogue partnerships and planning groups that engage in informal behind-the-scenes policy preparation and that act as forums for exploring new ground, overcoming disagreements and building consensus. It has managed to impose its definitions of goals, means and needs on the rest of the international community and has got its way sometimes in the face of strong opposition from powerful states, as the case of the Orange Revolution demonstrates. In doing so the EU has engaged in strategic selectivity by privileging some elite groups, NGOs and state structures over others.

When examining EU activity in the eastern neighbourhood against the typology of governance provided by the literature on polycentric systems, it seems that relations with Ukraine are a case of top-down governance, in which authority emanates mainly from Brussels and, to a lesser extent, the national capitals, and in which non-state entities act as satellite organisations. EU border management activities have on the whole been driven by the Commission, while its position during the 2004 presidential election crisis was articulated by the Council. That said, there have been bottom-up tendencies concerning the issue of giving Ukraine a membership perspective, where the central institutions have been forced to respond, albeit reluctantly, to pressure from Kiev, Warsaw, Riga, Tallinn and Vilnius with more programmes for integrating Ukraine into EU-centred institutions and policies. And as far as network governance is concerned, the provision of technical assistance and

training to Ukraine involves a chain of public, private, national and international agencies bound together by informal agreements and operating in the absence of a unifying authority. In this instance it makes more sense to think of the EU as a whole operating as a network state, that is, a state that shares authority along a network. Thus by showing how polycentric approaches relate to EU external practices, the concept of multi-level governance has been found to be useful in informing our understanding of the EU as an international actor.

The investigation of EU involvement in Ukraine undertaken in this thesis reveals another important feature of how the Union conducts its external affairs. In order to exercise control over developments in locations that lie outside its current geographical and institutional confines, the European Union needs to acquire the capacity to act at a distance. Such action is predicated on the ability to forge lasting alliances between authorities at different levels, and to maintain and expand these alliances so that they can act at considerable distances. As practices such as remote policing demonstrate, much of EU activity in Ukraine is devoted to the building of networks of immigration and organised crime liaison officers whose job it is to relay information derived from local sources to centres of intelligence and analysis inside the EU. This mode of operation can be found in other areas as well, evidenced by the inclusion of energy officials and election monitors in networks based on shared norms and standards, and by the interlinking of electronic data management systems. The latter constitute an essential component of the networked power possessed by the EU as they allow the central institutions in Brussels to construct a picture of the social, economic and political processes over which they wish to exercise control.

The importance for EU policy towards Ukraine of information gathering through monitoring and surveillance activity can hardly be overstated. One of the main motivating factors behind EU involvement in the region is the desire to confer greater visibility on the social, economic and political transactions taking place in the eastern neighbourhood. Whether the object of interest is cross-border traffic, energy flows or election-related processes, the EU has set up, or is in the process of setting up, advanced systems for measuring and recording of human and material activity. The purpose is to render this activity

in a form whereby it can be evaluated, diagnosed and, if necessary, acted upon, as in the case of the disputed presidential ballot. By turning the territory and infrastructure of nearby states into an observable space, Brussels is able to extend its field of vision well beyond the present geographical and institutional confines of the emerging European polity and closer to the sources of instability and danger that it wishes to avert.

The stationing of early warning systems on the outer periphery of the neighbourhood to alert the EU of any incoming threats of a bio-political or other nature brings to light the technical character of EU intervention in the administrative and institutional machinery of the Ukrainian state. The reforms that Kiev needs to implement in order to qualify as a good neighbour to the EU are far reaching and touch upon many aspects of the Ukrainian public administration. They involve the reorganisation of the country's physical infrastructure according to EU technical standards. This often requires new equipment and the knowledge of how to use it. They also necessitate changes to the legal and regulatory framework that governs important functions performed by the Ukrainian state, such as the conduct of elections, the policing of borders, and the metering of energy flows. In certain cases, the reform agenda pursued by the EU calls for changes to the institutional status of Ukrainian government agencies. The push for the demilitarisation of the State Border Guard Service would be an example of that. The vast majority of Commission and member state-funded programmes in the country are specifically designed to facilitate the export of technical, administrative and legal instruments from the EU to Ukraine in order to achieve a sufficient degree of compatibility necessary for further integration. The wide-ranging approximation instigated by European agencies operating in Ukraine lies at the heart of EU activity in the eastern neighbourhood and deserves to be examined in its own right.

This thesis has taken a molecular or bottom-up approach to studying EU activity in the post-Soviet space, where the technical dimension of Brussels' involvement in the region has been given precedence over the more headline-grabbing aspects of EU diplomacy. Drawing on the vocabulary and conceptual richness of the theoretical literature on advanced liberalism, it has analysed the manner in which the European Union has sought to advance its

security interests in Ukraine. As such, the emphasis has been on the rather mundane, non-political aspects of EU external governance that are seemingly devoid of any geo-strategic significance in the traditional sense of the term. The impression of a fairly benign, de-politicised, low-key activity, however, fades away when examined with a view to its effects on the region.

If EU activity in the wider Europe is primarily driven by low-level, non-traditional security threats, its regional implications lie at the higher end of the security spectrum. The geopolitical significance of EU engagement in Ukraine stems from the country's location in the common external security space of both the European Union and the Russian Federation. Both share very long land borders with it and have a considerable stake in its stability and economic development. Because of its land mass, large population and industrial potential, Ukraine is a determinant regional actor and a desirable ally that both Moscow and Brussels have wished to keep on their side.

Location is not the only explanation why EU involvement in Ukraine has had consequences that reach beyond the confines of the Ukrainian state. Part of the reason lies in the country's recent history as one of the constituent republics of the former Soviet Union. Because Ukraine acquired independent statehood only recently, much of its physical, institutional and regulatory infrastructure continues to be tied to that of the defunct USSR. Ukraine's political institutions, administrative apparatus, organisational culture and legal framework have only recently begun to evolve away from the Soviet model and therefore exhibit strong features of both national and post-Soviet governance, something that the country shares with most other successor states of the USSR. This shared inheritance, and the challenges and opportunities associated with it, explains why Ukraine has allowed itself to be drawn into regional structures that, to a certain extent, duplicate the functions of organisations like the EU.

Kiev's institutional affiliation with intergovernmental organisations in the post-Soviet space is another reason why EU activity in Ukraine has significance for the regional order in the wider Europe. The country is a member of the Commonwealth of Independent States (CIS) which, as the successor organisation of the defunct USSR, has provided the framework for managing the extensive political, commercial and social exchanges that

continue to take place between the Soviet successor states. While Kiev has not signed the CIS charter, it enjoys full membership rights and has actively participated in nearly all of the organisation's activities. Although a matter of intense debate, the purported mission of the Commonwealth has been to promote intense cooperation among its members, as well as to facilitate a certain degree of economic reintegration of the post-Soviet space.

The growing involvement of the European Union in Ukraine has a strong impact on the country's relations with its eastern neighbours and on its ability to participate in regional integration projects such as the CIS. At the most basic physical level, programmes targeted at the management of Ukraine's eastern border can lead to the reduction of human and commercial traffic in this highly integrated borderland. Similarly, EU-supported reforms in the energy sector threaten to bring about the disarticulation of parts of – or, as in the case of electricity, the whole of – the country's energy infrastructure from that of the CIS, with resultant losses in economic activity for both sides.

Because EU transformative practices target Ukraine's legal and regulatory framework over and above its physical infrastructure, the impact on the country's ties with the east is amplified several times over. Legislative approximation to the Union's customs and energy acquis, for example, bodes ill for bilateral investment and trade with Russia as business contacts between Kiev and Moscow have thrived on the similarity between the legal environments existing in the two countries. The expansion of the EU legal and regulatory base to encompass Ukraine serves to create a misfit between the country's legislation and that of the rest of the post-Soviet region, making reintegration at the level of energy and borders an impossibility. Likewise, its involvement in organisations like the Energy Community may cut across Ukraine's obligations that stem from its membership of the CIS.

The most controversial aspect, from a geo-strategic standpoint, of the neighbourhood initiative is the monitoring and surveillance activities conducted by the European Union in the Ukrainian-Russian borderland. Given the complementary character of the energy infrastructure either side of the border, and the dependence of Russian companies on the transparency and effective functioning of that border for exchanges with their Ukrainian subsidiaries, it is not difficult to see why the Russian authorities would wish to

keep this area away from the prying eyes of western security personnel. The sense of unease about EU information gathering activities in the border vicinity is heightened by their 'polyvalence' or 'fungibility', i.e. the awareness that such practices can be invested with different purposes depending on the political rationality they come to be associated with. While this is not to say that, for example, aerial surveillance of the border area will necessarily be used for the purposes of military or industrial espionage, the positioning of EU monitoring/measuring equipment so close to the Russian border is bound to make Moscow feel uncomfortable. The fact that the overwhelming majority of EU member states are also members of NATO has not helped to allay Russian suspicions.

Finally, the practice of elite capture whereby Brussels seeks to co-opt national elites and enlist them in the service of its own interests has had consequences for the regional disposition of forces in far Eastern Europe. Like the EU, Moscow has relied on pro-Russian elements of the Ukrainian elite to exercise influence over the country's internal development and foreign policy orientation. The Orange Revolution, in which the European Union played a measurable role, saw the removal from power of Moscow-friendly politicians in Kiev and their replacement by individuals who share an ideological commitment to Ukraine's integration with the West at the expense of ties with Russia. This has had deleterious effects on relations between Kiev and Moscow and has severely undermined Ukraine's participation in integration projects within the framework of the CIS. It has also affected the management of separatist conflicts in the region, most notably that in Transdnistria. The deep crisis in relations between Ukraine and Russia following the inauguration of Victor Yushchenko in 2005 shows that EU democracy promotion activities in the eastern neighbourhood have had implications not only for developments inside Ukraine but for the strategic environment in the region as a whole.

The upshot of EU transformative activity in Ukraine has thus been to thwart Moscow's designs to integrate the country in alternative structures to those advanced by the EU. In this respect, Brussels has behaved like an offensive positionalist seeking to alter the distribution of power in the region to its own advantage by hollowing out rival integration setups and thereby

increasing its own capabilities measured in political, economic and even military terms. While the Union has presently no intention of absorbing a large country such as Ukraine into its own highly integrated structure because of the costs involved, it is perfectly happy to utilise the resources of the Ukrainian state in the furtherance of its own security while at the same time preventing other players from the doing the same. This competitive behaviour testifies to the budding geopolitical ambitions of the emerging European polity which is gradually assuming the size and bearing of a continental super-state.

It is worth noting that EU involvement in Ukraine in the areas examined in this thesis has practically mirrored that of the United States and Canada. Whether one looks at programmes affecting the status of the Ukrainian-Russian border, efforts at reform in the Ukrainian energy sector, or indeed diplomatic activity during the 2004 election crisis, one cannot help noticing that the processes of Europeanisation and Westernisation initiated by public authorities on both sides of the Atlantic have tended to run in parallel and have even complemented one another in terms of the nature of the transformation they have sought to bring about.

In contrast to the United States however, which has acted on an overtly anti-Russian basis, the EU has not done so as a deliberate act of policy. Despite occasional utterances by prominent political figures from the Brussels institutions to the effect that the EU must do everything in its powers to keep Ukraine on its side, and despite all the ambiguous references in official EU documents to the importance of safeguarding Ukrainian independence, EU official discourse is free from overtly anti-Russian statements. This is not surprising given the complex nature of EU foreign policy, which must take into account the views of different constituencies in Europe, some of which harbour sympathetic feelings towards Moscow, or at least wish to avoid unnecessary confrontation with it. Rather than being clearly articulated and enshrined in foreign policy doctrine, the geopolitical objective of undermining Russian presence and influence in the region is implicit in what the EU does in Ukraine, in terms of the programmes and initiatives launched there since the year 2000. In this sense, EU foreign policy in far Eastern Europe has shown remarkable coherence at the tactical, if not the strategic, level.

There is evidence that EU efforts in the region are beginning to bear fruit. The Russian-sponsored integration process in the post-Soviet space has stalled as initiatives such as the Single Economic Space have unravelled following the rise to power of pro-Western political forces in Ukraine. At the same time, Moscow is beginning to disengage from the country as evidenced by the tightening of residency laws that affect Ukrainian migrants in Russia, the routing of oil and gas transport corridors that bypass Ukrainian territory, and the declining frequency of official contacts between Kiev and Moscow. These and other measures introduced by the Russian authorities in recent years have above all had a negative effect on Ukraine's political and economic stability. But they have also had repercussions throughout the former Soviet Union as events such as the Orange Revolution have forced Moscow to reconsider its relations with other states in the region, namely, Belarus and Moldova, as well as with the West. The growing strain this has put on inter-state relations in the region seemingly contradicts the stated objective of the European Neighbourhood Policy to promote stability, security and democracy in the area surrounding the EU. This goes to show that EU activity in the wider Europe has had wide-reaching implications which do not tie in neatly with the Union's grand principles and declarations.

To summarise, the evidence presented in this thesis suggests that EU involvement in key areas of Ukrainian public life has been motivated by various concerns situated at the lower end of the security spectrum, such as the prevention of immigrant arrivals and illegal cross-border activities, the intensification of energy exchanges in the wider European region, and the promotion of free and fair elections governed by acceptable procedures. This involvement, however, has had a number of effects which are beginning to reshape the distribution of power in the region and can therefore be said to fall within the realm of high politics. By demonstrating how EU technical interventions in the politics, economics and administration of Ukraine have yielded important geopolitical dividends, this thesis has shown that, in the context of EU foreign affairs, high and low politics are interlinked.

While this thesis has focused on the period between 2000 and 2006, the study of EU activity in Ukraine is an ongoing task. The relationship between Brussels and Kiev is a rapidly evolving one and constantly throws up

new material for investigation. It would be interesting to see, for example, if the European Neighbourhood and Partnership Instrument (ENPI) that replaced TACIS in 2007 maintains the same priorities for EU action as its predecessor. The same goes for the new Enhanced Agreement between the EU and Ukraine, containing a new Justice, Liberty and Security Action Plan, both of which are still at the negotiation stage at the time of completing this thesis. An analysis of new areas of cooperation between Brussels and Kiev, such as transport and communication^s for example, and of the use of new instruments for promoting change could help paint a comprehensive picture of the strategic effects of European Union activity in the eastern neighbourhood. This dissertation aims to serve as a starting point of a full investigation into EU relations with the countries of the former USSR that could be extended not only to other states in the post-Soviet region, but to other geographical and political regions as well.

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APPENDIX – List of Interviewees

Name	Position	Organisation	Date
APAP, Joanna (Dr)	Administrator Policy Unit	European Parliament - DG IPOL Directorate C - Citizens' Rights and Constitutional Affairs Office Number RMD 03 J 034 89 Rue Belliard B-1047 Brussels	Interviewed on 28 April 2006
BOGENSPERGER, Bernhard (Mr)	EU JHA Liaison Officer	Delegation of the European Commission to Ukraine and Belarus 10 Kruhlo-Universytetska St., 01024 Kyiv, Ukraine	Interviewed on 9 October 2006 by telephone
BRENDER, Reinhold (Mr)	Desk officer Ukraine Political issues, ENP strategy on Ukraine	Unit E2: Ukraine, Belarus & Moldova External Relations Directorate General, European Commission Rue de la Loi 170 (CHAR 10/218) B-1040 Brussels, Belgium	Interviewed on 24 October 2005
BYSTRO, Yuriy (Mr)	Capacity Building Migration Management Project Assistant, former external relations at PVU	International Organization for Migration (IOM) Mission in Ukraine 8 Mykhailivska St, 01001 Kyiv, Ukraine	Interviewed on 4 October 2006

CARPENTER, Douglas (Mr)	Desk Officer Ukraine Economic issues	European Commission DG for External Relations Unit RELEX.E.2 - Relations with Ukraine, Moldova and Belarus 200 Rue de la Loi, 1049 Brussels	Interviewed on 28 November 2008 by telephone
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